



House of Commons
International Development
Committee

**Fair trade? The European
Union's trade
agreements with
African, Caribbean and
Pacific countries**

Sixth Report of Session 2004–05

*Report, together with formal minutes, oral and
written evidence.*

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Footnotes

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Summary

When he took office, the new European Trade Commissioner, Rt Hon Peter Mandelson, declared that his mission was to make trade fair for the many, and to ensure that the poorest have a share in rising global prosperity. We share the belief that fair trade can be a vital force in the fight against global poverty. We are unconvinced, however, that the current Economic Partnership Agreement (EPA) negotiations will produce such an outcome.

Our concerns are fourfold:

- There is a lack of public scrutiny over the negotiation process between one of the world's more powerful economic actors, the EU, and 79 of the world's poorest economies, the African, Caribbean and Pacific group of states (ACP). Outside of a small trade circle, very little notice is being taken of these negotiations which are running parallel to the WTO's Doha 'development' round.
- The negotiations will fundamentally alter the trade relationship between the EU and the ACP. In particular, the ACP group, which used to be the most preferred trading partner of the EU, will be moving from non-reciprocal preferential access to reciprocal trading arrangements with the EU. Because of slow progress at the WTO, the EU cannot guarantee to offer the ACP states consideration of their development status in these new Partnership Agreements. Without special and differential treatment, the agreements will not be fair.
- In direct contrast to the current WTO Doha 'development' round negotiations, no similar commitment to development has been made by the EU in the EPA negotiations. If the EU is committed to poverty reduction, trade agreements with developing countries must be negotiated with this as their main objective. This means that any agreement offered to the ACP must have a developmental component; should not conflict with regional integration processes; should not demand liberalisation in sectors where the EU has not itself liberalised; and should not seek to put onto the agenda in regional negotiations, issues which the ACP group has previously rejected at the all ACP level.
- Finally, we are concerned that the EU is approaching the negotiations with the ACP as if they were a game of poker. The Commission is refusing to lay its cards on the table and to dispel the ACP's fear that it stands to lose more than it will gain. While this may be acceptable behaviour for partners with comparable hands, it is unnecessary and unwelcome in the current negotiations. The ACP is negotiating under considerable duress and the EU approach emphasizes the unequal nature of the negotiation process. If the negotiations are to be successful, these worst fears have to be allayed now.

We challenge the UK Government to ensure that it uses its Presidency of the EU to turn these negotiations around, to dispel our disquiet, and to guarantee that the poorest countries have real choices to enable them to use trade for their own development. We challenge the EU to make poverty reduction the primary goal of the EPA negotiations.

1 Introduction

'My mission, as Europe's new Trade Commissioner, is to make trade fair for the many, not just free for the few. By fairness, I mean enabling all countries, including the poorest, to share in rising global prosperity.' (Commissioner Peter Mandelson, Directorate General for Trade, European Commission)¹

1. Negotiations for Economic Partnership Agreements (EPAs) between the European Union (EU) and regional groupings of the African, Caribbean and Pacific (ACP) countries began in 2000. The EPAs, mandated by the Cotonou Agreement,² will replace the current trade and development policies under the Lomé Convention³ from 2008 onwards.

2. We are concerned that these agreements have not been given the attention they deserve. While the Doha round meetings of the World Trade Organisation (WTO) have grabbed the media and government attention, negotiations for new trade agreements with the ACP states have been proceeding apace with little public scrutiny. Because the ACP group includes all but nine of the world's least-developed countries (LDCs) and many of the poorer middle income countries (MICs), these new trade agreements have important developmental implications.

3. Accordingly, the Committee decided to carry out an inquiry which focused on four main issues:

- the extent to which EPAs are sufficiently oriented toward development, and the alternatives for those ACP states who do not wish to sign an agreement;
- the justification for the inclusion of the Singapore issues⁴ in the EPAs after their rejection in the WTO;⁵
- the options available for the LDC-ACP states; and,
- what can be done to assist those ACP states which are heavily dependent on preferential access to the EU sugar market, in the light of changes to be made to the EU sugar regime.

4. We received written submissions from a number of interested parties including NGOs, industry representatives and academics. We subsequently held three evidence sessions at Westminster. We took oral evidence from DFID and DTI officials, NGO representatives from CAFOD and from Traidcraft, representing a group of NGOs, an academic commentator and a civil society representative from Uganda. We subsequently held

1 "This is our 21st Century Challenge", *The Guardian*, 1 December 2004, available at <http://www.guardian.co.uk/comment/story/0,3604,1363374,00.html>.

2 See Glossary

3 See Glossary

4 The Singapore issues are: trade and investment, competition policy, transparency in government procurement and trade facilitation. All but the last have been excluded from the Doha round of trade negotiations because of developing country objections.

5 See International Development Committee (IDC), First Report of Session 2003-04, *Trade and Development at the WTO: Learning the lessons of Cancún to revive a genuine development round*, HC 92-I, available at <http://www.publications.parliament.uk/pa/cm200304/cmselect/cmintdev/92/92.pdf>.

evidence sessions with the newly-appointed Commissioners for Trade (Peter Mandelson), and Development and Humanitarian Aid (Louis Michel). We are grateful to all those who made submissions and gave evidence to the inquiry.⁶

5. The negotiations mark a significant turning point in the longstanding relationship between the EU and the ACP. While the Lomé Convention trade arrangements allowed the ACP states preferential and non-reciprocal access to the EU market, the EPAs will eventually become asymmetrical but reciprocal Regional Trade Agreements (RTAs). Many of the unique features of the Lomé Convention, held up in the 1970s as the model for North-South negotiations, such as compensatory schemes and the commodity protocol guarantees, have already been eroded as part of the EU effort to normalise and liberalise the EU's relationship with the ACP.⁷ The changes to the trade regime represent one more step in the process, with significant implications for the ACP states.

6. The relationship between the EU and the ACP has never been an equal one. This has not changed in the negotiations for the Economic Partnership Agreements. There appears to be an assumption within the UK Government and the European Commission that the ACP can sign up to, or reject, whatever they wish. This is not the case. The ACP states remain recipients of EU aid, some of which funds ACP negotiating capacity. The ACP nevertheless lacks the negotiating capacity of the EU and is stretched to negotiate simultaneously in the WTO and other regional negotiations. The ACP is also economically weak compared to the EU: it has very little to offer the EU and potentially much to gain from the negotiations. The collective ACP stake in the partnership negotiations is therefore significant. The negotiating process should be undertaken with this disparity in power in mind.

7. There is a lack of clarity within the negotiating process about where competence lies and where decisions are taken. While DG Trade are clearly the lead negotiators for the EU, it is unclear what role DG Development is playing. Similarly, within the UK Government, the relationship between the poverty-focused Department for International Development and the Department of Trade and Industry is not spelled out in any detail. These relationships are important if the negotiations are to produce outcomes which favour development.

8. Much of the substance of the agreements such as coverage, transition times and rules, has yet to be agreed. Nevertheless, there is concern among northern and southern NGOs about possible negative impacts of the negotiations.⁸ Part of the impetus for reform comes from the requirement for WTO compatibility in any new trade arrangements.⁹ Yet progress in the current WTO round is already delayed, which increases the likelihood that the ACP will be negotiating for agreements which may exceed, in terms of the extent of liberalisation, what is eventually agreed in the WTO. While this need not necessarily be harmful, it would be wise to be cautious.

6 A full list of witnesses can be found on page 29.

7 Arts, K. & Dickson, A. (eds), *EU Development Cooperation: from Model to Symbol*, Manchester: Manchester University Press, 2004.

8 Most recently Action Aid have produced a report on *Trade Traps: Why EU-ACP EPAs pose a threat to Africa's development*, London, 2005, available at http://www.actionaid.org.uk/wps/content/documents/trade_traps_17122004_10619.pdf.

9 Article 36.1 of the Cotonou Agreement, available at http://europa.eu.int/comm/development/body/cotonou/agreement_en.htm.

9. Our report highlights a number of concerns which were raised in evidence about the negotiating process, as well as the content of the negotiations. While some of our concerns have been dispelled, others remain unresolved. **We think that the success or failure of the negotiations should be assessed against the mission which Peter Mandelson set himself: to make trade fair for the many and to ensure that the poorest have their share of rising global prosperity.** In the context of the promise of a development round in the WTO, we would like to see more than just a rhetorical commitment to fairer trade and poverty reduction in these negotiations.

2 EPA negotiating arrangements, process and issues

Economic Partnership Agreements: can they be a tool for development?

10. The Cotonou Agreement mandates the creation of WTO-compatible Economic Partnership Agreements (EPAs) between the EU and regional ACP groups. EPAs will be Regional Trade Agreements (RTAs) between a group of developed countries – the EU, and groups of developing countries within the ACP. At present there are four such regional groups in Africa, one in the Caribbean and one in the Pacific. The ACP group will continue to exist, but its role and scope will be radically altered. The EU has said that EPAs will contain a strong developmental emphasis, but that they will also include reciprocity. The Commission has also said that this will be asymmetrical reciprocity which would allow the ACP regions to open their markets to the EU at a slower rate than the EU would open its market to the ACP.

11. RTAs are regulated under Article XXIV of the GATT which states that ‘*substantially all trade*’ must be covered and that full reciprocity is expected ‘*within a reasonable time frame*’. The lack of precision in Article XXIV makes it difficult to come to a definite conclusion about WTO conformity, although the former has commonly been taken to mean 90% of all trade, and the latter provision 10 years. The EU-South Africa agreement includes asymmetrical reciprocity in favour of South Africa — 95% of goods imported into the EU from South Africa are covered, while only 86% of those imported from the EU by South Africa are included. The transition period in this case is twelve years.

12. In his evidence, Commissioner Mandelson said that: ‘one of the rule changes that I want to promote in the WTO is a more flexible interpretation and application of Article XXIV in order to accommodate the sort of progressive, step-by-step market opening that is envisaged in these agreements.’¹⁰ When pressed, he said that if necessary he would seek a revision of Article XXIV in order to incorporate his desire to create asymmetrical reciprocity over a considerable period of time, ‘as befits the needs and the rate and the pattern of development of the ACP countries themselves in their particular regions.’¹¹

13. The achievement by the EU of a more flexible WTO rule for developing countries entering RTAs with developed countries would be a major benefit. At present this is not a *fait accompli*. The ACP group have asked the WTO for clarification of the maximum length of transition possible for developing countries. They have also asked that this be consistent with the trade, development and financial situation of developing countries, but in any case not less than 18 years.¹² The WTO have now asked the ACP to reconsider this request — making the period for adjustment shorter.¹³ **It would reflect badly on the EU if**

10 Q 52 [Peter Mandelson, European Commissioner for Trade].

11 Q 51 [Peter Mandelson, European Commissioner for Trade].

12 WTO, *ACP submission on Regional Trade Agreements*, 28 April 2004, pp. 3-4.

13 The Commission for Africa report has suggested that, if necessary, a twenty year period for adjustment should be considered [*Our Common Interest*, Report of the Commission for Africa, March 2005, chapter 8, paragraph 112,

promises were made to the ACP which then could not be achieved in the WTO. The UK Government should work to help the Commission achieve this more flexible interpretation of Article XXIV in the WTO.

14. Commissioner Mandelson has promised to create a review mechanism for the EPAs to ensure that they deliver on their developmental objectives.¹⁴ However, the mechanism proposes to assess the roll-out of aid, related to the negotiations, rather than to review the negotiation process. It does not propose a formal mechanism for examining how the trade aspects of the EPAs impact on development. Peter Mandelson's response, when questioned by the Committee, was unclear. He said, 'the approach is comprehensive. The package we are trying to devise is comprehensive, and therefore the conversation that we keep having has to be comprehensive. What we are therefore monitoring and keeping under review is the effectiveness of what we are doing, the effectiveness of the agreement that we are seeking to operate.' And, 'I have decided that a new monitoring mechanism will be introduced, [...] and that machinery is currently under design to make sure that we know that is happening, that we do not simply create a nice canvas, agree that it is all hunky-dory, press the button, retreat and do not bother to look again at how it is actually operating in practice.'¹⁵ **We welcome the setting up of a review mechanism, but it needs to monitor the implications of the EPAs for poverty in the ACP states. It should also incorporate a mechanism to address any negative impacts on poverty reduction.**

Opening agricultural markets

15. NGOs and other commentators fear that unless liberalisation is monitored for its poverty and social impact, allowing EU agricultural products to enter ACP markets duty free could be harmful to small, vulnerable producers, as well as to household welfare in largely agrarian ACP states. Consequently, some NGOs have argued that the demand for reciprocity should be withdrawn.¹⁶ DFID have said the ACP states should be protected from import surges of EU agricultural products. The WTO is developing a Special Safeguard Mechanism (SSM) which developing countries could use for protection. In addition, under the EPAs, the ACP states will be permitted to identify sensitive products for which they do not have to open their markets to the EU. However, in general, the EU and UK Government position is that trade liberalisation has greater potential than it has disadvantages, although the Development Commissioner did acknowledge that, in the first phase of liberalising, social catastrophes often occurred.¹⁷

16. Our main concern is that much of the EU's production and exports are subsidised through the CAP; ACP markets cannot withstand such competition. Christian Aid raised an example of when subsidised processed tomatoes from Italy competed with a Ghanaian

www.commissionforafrica.org]. The DTI Written Ministerial Statement (22 March 2005, Official Report, 62WS) also recommended a 20 year period.

14 *Putting development first: EU-ACP relations, EPAs and the Doha Round*, Statement by EU Trade Commissioner Peter Mandelson at the Press Conference, Georgetown, Guyana, 6 January 2005, available at http://europa.eu.int/comm/commission_barroso/mandelson/speeches_index_en.cfm.

15 Q 58 [Peter Mandelson, European Commissioner for Trade].

16 ActionAid, *Trade Traps*, p. 32, see footnote 9.

17 Q115 [Louis Michel, European Commissioner for Development and Humanitarian Aid].

tomato processing factory.¹⁸ ODI note that the aggregate impact of the EU support programme for tomatoes on the industry and on world markets is small and the Mediterranean countries of the EU would continue to be significant tomato processors even without the current subsidy system. But, without the processing subsidy, the EU industry would be smaller, benefiting competing tomato processors in other countries, although it is not clear that these would be developing countries.¹⁹

17. The successful completion of the current WTO Doha Round depends to a large extent on the outcome of the agricultural trade negotiations. Dubbed, by OECD countries, including the UK, the 'development' round, these talks, which began in 2001, encompass a revision of the 1994 Agreement on Agriculture (AoA). The AoA called for reductions in agricultural subsidies, now estimated to be over US\$300 billion per year in industrialised countries, and which distort agricultural trade by artificially lowering world prices for agricultural commodities and depressing incentives for production, particularly for developing countries. The AoA set out a schedule for reductions on which progress has been limited, especially in the US and the EU. **Given the slow pace of CAP reform, we do not believe that ACP states should be asked to open their markets to such EU products until all trade-distorting subsidises have been removed. The transition period for full reciprocity in the agricultural sector should be explicitly linked to CAP reform.**

Services for development

18. Liberalisation of the services sector is important to some of the more economically developed ACP states, and because of the way the General Agreement on Trade in Services (GATS) operates, offers fewer costs to the ACP.²⁰ The East South African (ESA) group and the Caribbean have put forward proposals for liberalising their tourism and financial market sectors. Nevertheless, the ACP as a whole has been reluctant to make offers in the services sector, possibly because of lack of knowledge and preparation. The EU negotiating mandate asks for 'progressive and reciprocal liberalisation of trade in services, consistent with Article V of the GATS.'²¹

19. Most ACP states would benefit from access for the temporary migration of labour in services sectors (GATS Mode 4). In our report *Trade and Development at the WTO: issues for Cancún*²² we urged the UK Government and the EU to consider seriously developing country requests for progress on Mode 4.²³ Our report on *Migration and Development*²⁴ also points out that while this is a politically sensitive issue, enhanced migration, particularly temporary, unskilled migration, would benefit many developing countries.

18 Christian Aid, 'A rotten trade: Ghana's tomato farmers face unfair EU competition', November 2002, available at www.christianaid.org.uk/campaign/trade/stories/ghana2.pdf.

19 Note from Sheila Page, ODI. We know from our own visit to Ghana that not every ill of the Ghanaian tomato processing industry can be blamed on the EU. Inefficiency and mismanagement are also issues.

20 Ev 58 [Gillson, Page and Willem te Velde, ODI].

21 Ev 58 [Gillson et al].

22 IDC, Seventh Report of Session 2002-03, *Trade and Development at the WTO: Issues for Cancún*, HC 400-I, available at <http://www.publications.parliament.uk/pa/cm200203/cmselect/cmintdev/400/400.pdf>.

23 IDC, Seventh Report of Session 2002-03, *Trade and Development at the WTO: Issues for Cancún*, HC 400-I, para 120, see footnote 22.

24 IDC, Sixth Report of Session 2003-04, *Migration and Development: how to make migration work for poverty reduction*, HC79-I, available at <http://www.publications.parliament.uk/pa/cm200304/cmselect/cmintdev/79/79.pdf>.

20. The ACP states have requested further discussion of GATS Mode 4 in the EPAs but this has not met with much enthusiasm in the EU. Evidence we received from ODI suggests that the EU could provide long-term assistance to the ACP by including GATS Mode 4 in the EPA negotiations.²⁵ DFID was uncertain that other EU countries would be amenable, and pointed out that different member states had country-specific regulations.²⁶ Peter Mandelson responded more positively saying, 'I am open to that, because it has a basis in the WTO, it has a basis in the negotiations...so I see no inconsistency or no incompatibility between our Doha agenda approach and our EPA approach in respect of Mode 4.'²⁷ **We welcome this response. We consider that Mode 4 should be an issue on which the UK government seeks progress in the EPA negotiations.**

Including the Singapore Issues

21. The Singapore issues are trade facilitation, investment, competition and government procurement. After the collapse of WTO talks in Cancún, WTO members agreed to drop all the Singapore issues except trade facilitation from the Doha Round. On trade facilitation, they recognised the need for a long lead-in period in some developing countries. In the Cotonou Agreement, competition and investment are referred to in Articles 21.1, 21.5 and 75 as areas which Cotonou will support in the context of regional and national economic development, but there is no clear commitment to negotiate on them with the EU. The Cotonou Agreement does not mention government procurement. The EU negotiating mandate includes all the issues. Both Commissioners Mandelson and Michel have stated that they consider these issues to be important for development and that although they were rejected in the WTO, this does not mean that they would be wrong for the EPAs. Of course, the point is, that ACP states should be able to decide.

22. Evidence from a member of the Common Market for Eastern and Southern Africa (COMESA) says that: 'we will do what we think is best for us in terms of regional integration at the regional level and I hope we will not let negotiating positions taken at the WTO level derail regional integration efforts.'²⁸ He goes on to say that East South African (ESA) countries are not willing to start to negotiate the Singapore issues under EPAs, but they are addressing these issues at the regional level: 'Although we see the necessity of addressing these issues in the context of regional integration, we are yet to decide on whether there is a value added in negotiating these issues with the EU.'²⁹ More recently Mr. Falkenberg from DG Trade was told by a number of African ACP trade ministers that the Singapore issues should not be in the EPAs.³⁰ Their inclusion in the EPAs has already been the subject of disagreement in the Joint ACP-EU Parliamentary Assembly.³¹

25 Ev 58 [Gillson et al].

26 Q 14 [Ms Dianna Melrose, Head, International Trade Department, DFID].

27 Q 59 [Peter Mandelson, European Commissioner for Trade].

28 Confidential memorandum from a COMESA spokesperson.

29 Confidential memorandum from a COMESA spokesperson.

30 "EC Trade Director 'stunned' in Dar as African ministers oppose Singapore issues in EPAs", *Third World Network – Africa*, Vol. 2(1), January 2005, available at <http://www.twnafrica.org/docs/ATA-2,1.doc>.

31 Ev 61 [Gillson et al].

23. In our post-Cancún trade report³² we expressed our concern that the UK Government should have done more to persuade the EU to drop the issues in the WTO. In its evidence DFID acknowledged that the EU mandate went beyond the Cotonou Agreement, and that DFID intended to discuss this with the Commission.³³ DFID also said that each EPA could be different and that each issue need only be included if it was thought to be useful to the ACP region concerned: 'we want to see evidence for how these could be useful and in what way could investment, competition be usefully included in the EPA negotiations.'³⁴ Commissioner Mandelson did not provide evidence of the beneficial impact of including the new issues in the EPAs;³⁵ nevertheless, he insisted that he wants to return to these issues and to create a framework in which they can be addressed in a development-friendly way.³⁶

24. Many ACP regions are working towards creating common rules for investment and competition, as part of their own regional integration processes in their own way, at their own pace. Peter Mandelson has said that there are no European firms knocking on his door demanding access to the ACP markets.³⁷ If that is the case, it is not clear why the EU would wish to push these issues. In addition, there are high implementation costs. The ODI points out that the EU has only added these issues to intra-regional trade as it has acquired the competence to deal with them. They were not part of the Treaty of Rome. While some ACP states are moving towards these, they are not treating them as issues which are essential at the early stages of regional integration.³⁸

25. The ACP states are already negotiating with limited capacity and under considerable duress. In respect of the Singapore issues we were told: 'what they fear is that the EU will twist their arm to accept with the EPAs things that they would never have to accept on a more level playing field.'³⁹ The assumption is being made by both the UK Government and the EU that the ACP can reject these issues if they wish and that agreements will not be imposed on the ACP if they do not have the capacity to negotiate them. But this is not the case. The ACP have collectively disagreed with the EU about the inclusion of the issues.⁴⁰ Some ACP representatives have now reiterated concerns about their inclusion. But the relationship is a highly unequal one: unlike the EU, the ACP have much at stake in the negotiations. Peter Mandelson has said that the Singapore issues would have to be agreed by the ACP states in order to be included in a regional EPA, effectively passing responsibility to the ACP. However, given that both the Commissioners for Trade and

32 IDC, First Report of Session 2003-04, *Trade and Development at the WTO: learning the lessons of Cancún to revive a genuine development round*, HC 92-1, see footnote 5.

33 Q 18 [Ms Dianna Melrose, DFID].

34 Q 20 [Ms Dianna Melrose, DFID].

35 Q 80 [Peter Mandelson, European Commissioner for Trade].

36 Q 78 [Peter Mandelson, European Commissioner for Trade].

37 "The ACP-EU relationship in the global economy", Speech by EU Trade Commissioner, Peter Mandelson, ACP-EU Ministerial, Brussels, 1 December 2004, available at http://europa.eu.int/comm/commission_barroso/mandelson/speeches_index_en.cfm

38 Ev 61 [Gillson et al].

39 Q 40 [Dr Christopher Stevens, Research Fellow, Institute of Development Studies].

40 Draft joint report on the all ACP-EU phase of the negotiations, October 2003, para 25: 'for the ACP side, the rules aspects of the trade-related areas should not be the subject of EPA negotiations before agreement is reached on how to treat these issues at a multilateral level, particularly in the WTO.' Available at www.epawatch.net/documents/doc144_1.doc.

Development have publicly declared that they believe the new issues to be developmentally beneficial, it will be difficult for the ACP to argue otherwise.

26. It is incumbent on the EU to demonstrate that the beneficial effects of the new issues exceed the costs of implementation before ACP states should have to consider them outside their own regional context. DFID has said that, 'the EU must protect the right of ACP countries to regulate their economies, and support, not supersede, regional progress on these issues.'⁴¹ We agree with this. The EU is in danger of jeopardising progress on the EPAs if they do not listen to the concerns of the ACP. **We are concerned that the EU is abusing its position in the partnership to persuade the ACP states that these issues are essential for development and that they will be doing themselves a disservice to reject them. We think that the Commission, as a show of good faith, should step back from its endorsement of the Singapore issues and only negotiate on them at the request of a specific ACP region.**⁴²

27. There is no basis for including government procurement on the basis of non-discrimination in the EPAs since it is not in the Cotonou Agreement. The UK Government should make this clear to the Commission.

Alternatives to the EPAs

28. The Cotonou Agreement says that the EU will assess the situation of any non-LDC which, after consultation with the EU, decides it is not in a position to enter an EPA, 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.'⁴³

29. At the Joint ACP-EU Council in July 2004, the ACP requested a postponement of the review of alternatives until 2006. We were told that the alternative to the EPAs for non-least developed ACP states will be the Generalised System of Preferences (GSP) or the recently proposed GSP+ scheme, which provides additional tariff preferences for specified products to countries if they ratify key international conventions on human rights, labour good governance and the environment. At present, the draft proposal for a regulation for the GSP+ scheme only provides a detailed implementation regime for the period 2005–2008.⁴⁴

30. Despite the benefits of non-reciprocity, the GSP is non-contractual. This means that the EU can rescind it at any point. In addition, imports are subject to limits, and the rules of origin (RoO) are more restrictive than those which the ACP currently enjoys. In particular, the rules of origin do not offer regional or cross-regional cumulation which would allow ACP states to source raw materials and components in other ACP states and regions.

41 Ev 35 [DFID].

42 In a Written Ministerial Statement (22 March 2005, Official Report, Col. 62WS) the Secretary of State for Trade and Industry set out the Government's view that the EU should not push for these issues to be discussed in the EPAs unless requested by the ACP. This announcement came too late to be taken into account in the writing of our report.

43 ACP-EU Partnership Agreement, Article 37:6, available at http://europa.eu.int/comm/development/body/cotonou/index_en.htm.

44 CEC, *Proposal for a Council regulation applying a scheme of generalised tariff preferences*, COM (2004) 699 final, 20 October 2004, available at http://europa.eu.int/eur-lex/lex/LexUriServ/site/en/com/2004/com2004_0699en01.pdf.

31. Preliminary assessment of the GSP+ scheme indicates that while Least Developed Countries would continue to have duty free access for most of their products under the EBA, non-LDC ACP states eligible for the GSP+ scheme would face higher levels of tariffs than they do at present.⁴⁵ Thus if the GSP+ scheme is intended as the alternative arrangement for those non-LDC ACP states which do not sign EPAs, then it falls short of the promise to provide no worse market access than under the Cotonou preferences. **The UK Government should continue to push the Commission to ensure that the alternatives for non-LDC ACP states guarantee the same level of market access as the Lomé arrangements. They should not face higher levels of tariffs in the EU market than they do at present.**

32. Commissioner Mandelson has changed the tone of the debate to say that the alternatives are a 'second best' option rather than a real alternative as promised in the Cotonou Agreement: 'Why would one want to discuss second best alternatives at this stage?'⁴⁶ When pressed, Peter Mandelson insisted that the GSP was 'in no sense comparable to the sort of partnership agreements which are developmental tools rather than simply market access tools.'⁴⁷ In contrast, DFID had said that the alternatives 'had to be developmental and beneficial' and that, 'the government is absolutely determined, it has committed itself in the White Paper to make sure these are development-led.'⁴⁸ Market access arrangements on their own would not achieve the poverty reduction objectives of the Cotonou Agreement. **We are concerned that in presenting the alternatives as a second best option, with no developmental component, the Commission is going against the spirit of what was agreed in Cotonou. It places the ACP in the position of having no real choice, and reinforces their unequal position in the negotiating process. Development should be integral to any trade options presented to the ACP, even when they are not the first choice of the EU. The UK Government should continue to work to ensure this is the case.**

45 Stevens, C., Kennan, J., *Assessment of the proposed reform of the GSP*, paper prepared for the European Parliament, January 2005.

46 CEC, *Economic Partnership Agreements: putting a rigorous priority on development*, Memo, Brussels, 20 January 2005, available at http://europa-eu-un.org/articles/en/article_4245_en.htm.

47 Q 66 [Peter Mandelson, European Commissioner for Trade].

48 Q 9 [Ms Dianna Melrose, DFID].

3 Targeting the poor?

The Everything But Arms Agreement

33. In 2000 the EU announced that, as part of its GSP scheme, it would provide all least developed countries (LDCs) with duty free access to the EU market for all their exports except arms. Tariff duties on exports of sugar, rice and bananas from LDCs will gradually be reduced from 2006, and entirely suspended in 2009. The EU has held up the EBA as an example of best practice and one it would like other donors to consider.

34. There are 39 LDCs in the ACP group. There is at least one LDC in each regional ACP group. The EBA, while ostensibly targeting the poorest, cuts across the Cotonou Agreement and each regional grouping which is now negotiating a Partnership Agreement. The effect of the EBA is to divide developing countries into two groups and offer one group better access than the other. In as much as it creates market openings for the LDCs, it does so primarily at the expense of non-LDC developing country competitors.

35. It is worth noting that the category of least developed country is based on a composite indicator which includes *per capita* income, human resources and economic vulnerability. It is not a direct measure of either poverty or trade disadvantage. With the exception of Bangladesh, the category automatically excludes any country with a population over 75 million. According to critics, 'the main losers from the somewhat arbitrary choice of the LDC designation are — apart from the one notch up countries like Guyana and Kenya — big, poor developing countries (notably India, Pakistan and Indonesia).'⁴⁹

36. In the ACP-EU context the EBA, being non-reciprocal, provides the LDCs with, in theory, a better offer than reciprocal EPAs. However, the utilisation of the EBA preferences amongst LDCs has been slight (3%).⁵⁰ There are a number of reasons for this, but the main one lies in the existence of a competing preference scheme; in this case the Cotonou preferences. The EBA has stricter rules of origin than existing Cotonou preferences, which allow ACP states to source components from any other ACP state. When the Cotonou regime changes from 2008 onwards, it will be less of a competing scheme. Another factor in the low uptake is the capacity of exporting countries to meet the quality, certification and traceability requirements of the EU, but this is not peculiar to the EBA. Finally, the EBA is non-contractual, which means that the EU can change it, or rescind it. As such, it offers less predictability than other schemes and this may put-off some ACP states.

37. All LDC-ACP states are currently negotiating Economic Partnership Agreements. While Part IV of the GATT allows for LDCs to be given special treatment, LDCs which sign up to an EPA will be treated in the same manner as non-LDC ACP states. This is because Article XXIV, governing RTAs, does not include the necessary Special and Differential Treatment (SDT) which would allow agreements between countries at different developmental levels to give special treatment to the developing country partners.

49 Page and Hewitt, "The new European trade preferences: does EBA help the poor?", *Development Policy Review*, Vol. 20 (1) 2002, p.100, available at http://www.odi.org.uk/Africa_Portal/pdf/DPRPageHewitt.pdf.

50 Gallezot J., Bureau J.C. (2004). *The Utilization of Trade Preferences: The Case of Agricultural and Food Products in the EU and the US*, Organisation for Economic Co-operation and Development, Paris.

So, from 2008, when the EPAs are due to begin, LDC-ACP states which sign EPAs will have to offer the same level of reciprocal market access to the EU as non-LDC ACP states.

38. This poses some difficult choices for LDCs. Many LDC-ACPs are already members of regional groupings. For example, Tanzania is a member of the East African Customs Union and the Southern African Development Community. As a LDC, Tanzania could benefit from duty free non-reciprocal market access to the EU under the EBA, but it could not do this if it chose to prioritise its membership of a regional group negotiating an EPA. DFID's view is that if the LDCs choose not to negotiate an EPA —that really makes things very, very complicated in terms of integrating into a region.⁵¹ **We do not think that things should be made complicated for the LDCs. The EBA should be a real option for LDCs. And they should not have to offer reciprocal market access to the EU until they have graduated from LDC status. The EBA should not conflict with regional integration initiatives in the ACP, especially given the emphasis that DG Trade is placing on the importance of regional integration.**

39. Peter Mandelson has now promised that he will seek to ensure that it is possible in the WTO to allow special and differential treatment for LDCs within an Economic Partnership Agreement. He has also said that LDCs will not be any worse off from joining an EPA than they would be if they used the Everything But Arms agreement: 'ACP countries will be no worse off once the EPAs kick in, from the EBA. That is very important. We are asking for EBA plus, not EBA minus.'⁵² **We understand 'EBA plus' to mean that LDCs who choose to sign an EPA will not have to offer the EU reciprocal market access.**

40. We are very pleased that the Commissioner has made this commitment but are concerned that it may not prove to be possible within the WTO framework, a fear which Peter Mandelson himself acknowledges.⁵³ We are also concerned that if it were possible, it would involve high transactions costs. If, within an ACP region, LDCs enjoy non-reciprocal market access, and non-LDCs had to gradually allow EU products in duty free, the LDC would have to police its borders quite extensively to stop EU goods being illegally traded. This might entail greater cost than benefit. Even with separate, non-reciprocal agreements for the LDCs in each EPA region, these transactions costs would occur with respect to regional integration initiatives.

41. To make the EBA more attractive, the EU should reform the rules of origin (RoO). DFID have stated that they are keen to tackle the RoO to make them less restrictive, simpler and to encourage export competitiveness. We were told that the rules of origin reflected an outmoded pattern of production. Forty years ago it would have been common for a large part of any product to be made in a single country, now this is no longer the case.⁵⁴ For the ACP states in particular, realising the potential to change their export structures away from unprocessed agricultural commodities would require substantial changes in the rules of origin. The Commission is currently taking consultations on revising these. **We support the review process. We would like to see the RoO reformed to allow greater regional and cross-regional cumulation to reflect changed patterns of**

51 Q 4 [Ms Dianna Melrose, DFID].

52 Q 81 [Peter Mandelson, European Commissioner for Trade].

53 Q 82 [Peter Mandelson, European Commissioner for Trade].

54 Q 46 [Dr Christopher Stevens, IDS]

production and the developmental aspirations of the ACP states. Another option is to 'bind' or secure the EBA in the WTO so that it becomes a certain, predictable offer which LDCs can make use of if they wish. Neither the Commission, nor the UK Government has considered this option. Both options would go some way to ensuring that the EBA is a meaningful offer to LDCs rather than simply a public relations gesture. If the EBA, which is a market access arrangement, is made more appealing, the Commission should ensure that LDCs which chose to take advantage of the EBA should not be denied access to the developmental aspects of the Cotonou Agreement.

Changes to the EC sugar regime

42. One area of the EBA which the LDCs have been keen to exploit is access for their sugar exports. The EBA promises duty free, non-reciprocal access to the EU market for LDC sugar exports gradually from 2006 with full access in 2009. Under the Lomé Convention, the Sugar Protocol offers select ACP countries, and India, access to the EU sugar market for specific quantities of sugar at guaranteed prices. The total amount of sugar imported under the Protocol is limited to 1.6 million tonnes. This access has proved extremely lucrative for the Protocol beneficiaries because the regulated EU price for sugar has been significantly higher than the world market price.⁵⁵

43. The Protocol has nevertheless excluded some ACP states which could export sugar competitively. In particular, Mozambique, a LDC, was excluded until March 2004 and then was only able to receive a small quota from the under-utilised Barbados quota. In response to the EBA, and the promise of duty free market access for sugar in the EU gradually from 2006, Mozambique and other LDCs began to invest in their sugar industries.

44. However, the Common Organisation of the Market for Sugar (COMS) has been subject to a number of pressures for reform, both internal and external. Internally there are concerns about the high cost of the regime to European consumers and taxpayers. The EU's new member states would also like to have a larger slice of this lucrative market. Externally, the EU is under pressure in the WTO to reduce its domestic subsidies and, in August 2004, Brazil, Australia and Thailand were successful in their challenge to the sugar regime in the WTO. The WTO ruled that the EU was subsidising sugar exports excessively, in violation of their commitments in the WTO. In addition, the WTO found that 1.6 million tonnes of sugar, the amount equivalent to the Protocol quotas, was being imported, refined and re-exported as domestic production with subsidies. These pressures led the Commission to propose a major reform of the sugar regime.⁵⁶ The proposals include a 37% reduction in the domestic support price for sugar over three years beginning in 2006.

45. Both ACP Protocol beneficiaries and LDC sugar producers have reacted strongly against this proposal. For the LDCs, the proposed price cuts will jeopardise investment in their sugar industries since they were relying on the 'predictable and remunerative'⁵⁷ prices of the COMS. Consequently, in March 2004, they proposed to the Commission that their

55 EU prices and quotas are regulated by the common organisation of the market for sugar (COMS), or the sugar regime.

56 While the proposals for reform were made prior to the WTO ruling, it is arguable that in making its proposals the EU anticipated the ruling.

57 Ev 52 [Letter to the Clerk of the Committee from the LDC London Sugar Group]

own tariff elimination under the EBA be delayed until 2016 to enable LDCs to prepare more effectively for further future market orientation. They have also requested a special quota for sugar from LDCs at the level of current LDC net exports to the world market and an increase in that quota by 15% each year until 2016. They fear that lower prices, with no quota restrictions, will exclude small, vulnerable producers from the market in favour of more competitive producers. The LDCs presented their proposals, which have the support of the whole ACP group, to the Commission in March 2004. They have not yet had a formal response.

46. The ACP Sugar Protocol signatories face similar challenges. Many are high cost producers which will not be competitive with the proposed prices cuts within three years. Some, for example Guyana, had already begun to try to make their industries more competitive. Others, for example St. Kitts, will not be competitive. They will need assistance to diversify outside of the sugar industry.

47. On a recent visit to Guyana, Commissioner Mandelson said, 'evidently, particular attention will have to be paid to the specific situation of small and vulnerable economies, such as those in the Caribbean, and the ones that are economically dependent on climate or on certain commodities, like sugar or bananas. Sugar reform in the EU is necessary and unavoidable, but it requires two things *vis-à-vis* ACP producers: that we maintain a preferential access for their imports, and that we accompany this with a robust local adaptation process. We will put forward development assistance measures, to increase competitiveness or to support diversification.'⁵⁸

48. On 17 January, a Commission staff working paper set out the action plan for measures for Sugar Protocol countries affected by reform of the sugar regime.⁵⁹ The working document sets out broad lines under which the Commission might propose to assist the ACP countries. As such it is as somewhat vague. We were however pleased to learn that the Commission recognises the urgency of the ACP position and that new funding will become available from the beginning of 2006,⁶⁰ although the amount has not been specified. Peter Mandelson has confirmed that the action plan 'will be fully and adequately funded from EU sources.'⁶¹ The funding will be used to help ACP states affected by the changes to carry out processes of adjustment, such as diversification into alternative products, or to diversify away from sugar production altogether. Although the actual plan has not been published, we understand that the funding will go directly to the sugar industries.

49. NGOs have expressed concern that the adjustment period, three years, is quite short for many ACP states. They fear that without quota cuts, EU over-production and export-dumping will continue. Evidence from the ODI suggests that some ACP states (Barbados, Côte d'Ivoire, Jamaica, Madagascar, St. Kitts and Trinidad) will become uncompetitive without investment in cost-saving production. Others (Guyana, Fiji and Mauritius) may

58 *Putting development first: EU-ACP relations, EPAs and the Doha Round*, Statement by EU Trade Commissioner Peter Mandelson at the Press Conference, Georgetown, Guyana, 6 January 2005, see footnote 14.

59 CEC, *Action plan on accompanying measures for Sugar Protocol countries affected by the reform of the EU sugar regime*. Commission Staff Working Paper, SEC (2005) 61, Brussels 17 January 2005, available at http://europa.eu.int/comm/development/body/tmp_docs/sugar_action_plan_17_01_2005.pdf

60 Q 92 [Peter Mandelson, European Commissioner for Trade].

61 Q 87 [Peter Mandelson, European Commissioner for Trade].

have to reduce output and concentrate on their most efficient producers and invest in new, lucrative markets. Some have already begun a restructuring process (Guyana, Belize, and less so, Jamaica) but the gains from this will not be realised by the time the price cuts begin.⁶²

50. In the long run, diversification will be necessary for most ACP states. The Sugar Protocol will continue, because it cannot be unilaterally renounced, but it will come to be less and less of a preference as prices are cut. However, in the short run we would argue that the period of adjustment to such severe price cuts is too short for the ACP Protocol beneficiaries and for LDC sugar exporters. **While we understand the need for reform of the sugar regime, and commend the Commission for taking the first step in this regard, due attention must be paid to the implications of reform on ACP and LDC producers who have come to rely on the EU market. We encourage the Commission to ensure that adjustment/transitional assistance to the ACP can be used to build capacity outside of the sugar sector and welcome the Commission decision to have the adjustment mechanism up and running at the beginning of 2006.**

Policy coherence

51. The trade agreements which the EU offers the ACP consist of a collection of largely discrete arrangements, some of which have a developmental component. Others are simply trade agreements. This raises questions about policy coherence, which the EU has itself recognised. ACP states could make use of the Economic Partnership Agreements currently being negotiated, the GSP and the GSP+, the Everything But Arms agreement, and the Sugar Protocol.⁶³ Not every ACP state is eligible for all these agreements, but some are already thinking about which agreement(s) best suit their developmental needs. Unfortunately, the decision will not be easy, since comparison between the agreements depends on a number of factors: product coverage; world market and EC prices; level of preference (overall and for each product); the extent to which a given agreement is consistent with regional integration imperatives; agreements with other major trading partners such as the US or Australia and Japan; progress in the WTO; and the number of developing countries which choose to take advantage of any one agreement. In addition, many of these agreements are still in the negotiation phase (EPAs), and others are subject to challenge or change (the GSP, GSP+), so that the benefits of a choice today may disappear tomorrow. **We are concerned that the ACP are not being presented with a coherent set of policy choices from the EU and invite the UK Government to address this issue without delay.**

52. Despite the declared commitment to regional integration, the multiple trade agreements which exist or are being negotiated, create divisions within extant regional groups and between LDCs and non-LDC ACP states.⁶⁴ As one commentator noted: 'While only a conspiracy theorist would say that the EU has intended to divide and rule the ACP, this may be the unintended effect of its own mix of policies.'⁶⁵ **If the Commission is**

62 Ev 62 [Gillson et al].

63 While part of the Lomé Convention, the Sugar Protocol has a separate legal existence.

64 See, as an illustration of this, the diagram in the Appendix., African Regional and sub-regional economic integration groupings and the regional EPA negotiation configurations. Source: ECDPM, 2004.

65 Ev 66 [Adrian Hewitt, ODI].

committed to assisting the poorest and/or to using the LDC category, this commitment should run through all trade agreements which are on offer to the LDCs. There should be no fundamental contradiction between policies to encourage regional integration and policies targeting the poor. Differentiation and regionalisation are both fundamental principles of the Cotonou Agreement.

53. Recently, DG Trade have emphasised that regional integration of the ACP countries is the objective of the Economic Partnership Agreements mandated in the Cotonou Agreement. DFID have warned that there is a danger that 'the EU is seeking to impose a European model of regional integration on developing countries which is at least out of date and probably inappropriate.'⁶⁶ We share their concern that inappropriate models should not be imposed on the ACP. This concern has not been alleviated by the response of Commissioner Michel which was, at the very least, ambiguous: 'If I had a wish to express it would be that the African organisations should agree the same kind of integration as the European model,' and, 'I do not want to impose a European model.'⁶⁷ **We urge the UK Government to seek clarification from the Commission on this issue. Regional integration initiatives should emerge from within the ACP regions. The scope and pace of integration should likewise be decided by the ACP region. Donor countries have a responsibility to ensure that their policies are coherent, or aligned, with developing country choices.**

54. Within the Commission, the negotiations for the EPAs are being led by DG Trade. The role of DG Development in the EPA process appears to be minimal and confined to supporting the process through funding initiatives via the European Development Fund (EDF). This is of concern because it may mean that the poverty implications of trade policies proposed and negotiated by DG Trade are not properly taken into account. In contrast, during the EU-South Africa negotiations for a free trade agreement, DG Development led the negotiations.

55. We were pleased to learn that there are three levels of coordination in the Commission to ensure that development remains at the centre of the EPA negotiations. These are: dialogue between the Commissioners for Development, Trade and External Relations; an internal task force on trade and development within the Commission; and, newly created regional (preparatory) task forces between the ACP countries and regional organisations.⁶⁸ The effectiveness of such coordination mechanisms is not yet obvious. After a discussion with ACP states on the revision of Cancún, Commissioner Michel said that he had to promise the ACP states that he would work with Peter Mandelson on the EPAs. Louis Michel told us, 'I had to promise them that there would be a very important development wing to make it possible for them in the first instance to face the difficulties and the negative consequences from the implementation of the conditions.'⁶⁹ Cross-EU coherence is important for development,⁷⁰ particularly given the key role which the Commissioner for

66 Unpublished DFID response to EC Consultation paper on the future of EC Development Policy: issues paper.

67 Q 120 [Louis Michel, European Commissioner for Development and Humanitarian Aid].

68 Q 120 [Louis Michel, European Commissioner for Development and Humanitarian Aid].

69 Q 116 *ibid*

70 See IDC, First Report of Session 2004-05, *The Commission for Africa and policy coherence for development: First do no harm*, HC 123, available at <http://www.publications.parliament.uk/pa/cm200405/cmselect/cmintdev/123/123.pdf>.

Trade is playing in the EPA negotiations. **We would like to see evidence of a greater level of cooperation between DG Development and DG Trade.**

56. The EU has commissioned and funded a number of sustainability impact assessments (SIA) of free trade agreements on the ACP regions. Some have reported concerns about the impact of full trade liberalisation on the regions. However the link between the SIAs and the EPA process is not clear. There does not seem to be a formal process of incorporating the findings of the SIAs into the EPAs and making adjustments where necessary. Commissioner Michel assured us that the EU was studying the SIAs and implied that the results were being taken into account in the EPA process; however he could not give any examples of instances in which an SIA had altered the EPA process.⁷¹ Again, we have concerns about the links between different Commission initiatives. In its paper, *Partnerships for poverty reduction*,⁷² DFID recommend assessing whether poverty reduction programmes are producing the desired poverty outcomes, rather than whether the Government is implementing a particular policy measure. **The objective of poverty reduction should be central to the EPAs. We would like to see evidence that the EPAs will produce the desired poverty outcomes.**

57. Within the UK Government, DFID recognises the comparatively limited negotiation capacity of the ACP and is funding a number of initiatives to assist the ACP in the negotiation process. This could potentially become problematic but it has not done so to date. In their evidence, we were told that DFID and DTI are working closely together to ensure that the EPAs deliver their developmental potential and that DFID and DTI are working closely with the EU.⁷³ We welcome such coordination but would like a clearer idea of what mechanisms exist to ensure that DFID perspectives feed into the Department for Trade and Industry.

58. In 2005 the UK Government has an important, 'once in a generation'⁷⁴ opportunity to ensure a coherent and effective partnership between the EU and the ACP when it assumes the EU Presidency. To do so, it must work jointly with other member states to make certain that the fundamental principles of the partnership: equality of partners and ownership of the development strategies, participation, dialogue and the fulfilment of mutual obligations, and differentiation and regionalisation, are upheld.⁷⁵ We would like to see the poor benefit from rising global prosperity. A fair trade agreement is a good starting point.

71 Q 123 [Louis Michel, European Commissioner for Development and Humanitarian Aid].

72 DFID, *Partnerships for Poverty reduction: rethinking conditionality*, March 2005, available at <http://www.dfid.gov.uk/pubs/files/conditionality.pdf>.

73 Ev 32 [DFID].

74 *Trade at the Service of Development: An action plan for 2005 for the EU Trade Commissioner*, Lecture by Peter Mandelson, LSE, London, 4 February 2005, available at http://europa.eu.int/comm/commission_barroso/mandelson/speeches_index_en.cfm.

75 ACP-EU Partnership Agreement, Article 2, available at http://europa.eu.int/comm/development/body/cotonou/agreement_en.htm.

Conclusions and recommendations

Introduction

1. The success or failure of the negotiations should be assessed against the mission which Peter Mandelson set himself: to make trade fair for the many and to ensure that the poorest have their share of rising global prosperity. (Paragraph 9)

Economic Partnership Agreements: can they be a tool for development?

2. It would reflect badly on the EU if promises were made to the ACP which then could not be achieved in the WTO. The UK Government should work to help the Commission achieve this more flexible interpretation of Article XXIV in the WTO. (Paragraph 13)
3. We welcome the setting up of a review mechanism, but it needs to monitor the implications of the EPAs for poverty in the ACP states. It should also incorporate a mechanism to address any negative impacts on poverty reduction (Paragraph 14)

Opening agricultural markets

4. Given the slow pace of CAP reform, we do not believe that ACP states should be asked to open their markets to EU products [agricultural products] until all trade-distorting subsidises have been removed. The transition period for full reciprocity in the agricultural sector should be explicitly linked to CAP reform. (Paragraph 17)

Services for development

5. We consider that Mode 4 should be an issue on which the UK government seeks progress in the EPA negotiations. (Paragraph 20)

Including the Singapore Issues

6. It is incumbent on the EU to demonstrate that the beneficial effects of the new issues exceed the costs of implementation before ACP states should have to consider them outside their own regional context. (Paragraph 26)
7. We are concerned that the EU is abusing its position in the partnership to persuade the ACP states that these issues are essential for development and that they will be doing themselves a disservice to reject them. We think that the Commission, as a show of good faith, should step back from its endorsement of the Singapore issues and only negotiate on them at the request of a specific ACP region. (Paragraph 26)
8. There is no basis for including government procurement on the basis of non-discrimination in the EPAs since it is not in the Cotonou Agreement. The UK Government should make this clear to the Commission. (Paragraph 27)

Alternatives to the EPAs

9. The UK Government should continue to push the Commission to ensure that the alternatives for non-LDC ACP states guarantee the same level of market access as the Lomé arrangements. They should not face higher levels of tariffs in the EU market than they do at present. (Paragraph 31)
10. We are concerned that in presenting the alternatives as a second best option, with no developmental component, the Commission is going against the spirit of what was agreed in Cotonou. It places the ACP in the position of having no real choice, and reinforces their unequal position in the negotiating process. Development should be integral to any trade options presented to the ACP, even when they are not the first choice of the EU. The UK Government should continue to work to ensure this is the case. (Paragraph 32)

The Everything But Arms Agreement

11. We do not think that things should be made complicated for the LDCs. The EBA should be a real option for LDCs. And they should not have to offer reciprocal market access to the EU until they have graduated from LDC status. The EBA should not conflict with regional integration initiatives in the ACP, especially given the emphasis that DG Trade is placing on the importance of regional integration. (Paragraph 38)
12. We understand 'EBA plus' to mean that LDCs who choose to sign an EPA will not have to offer the EU reciprocal market access (Paragraph 39)
13. We would like to see the RoO reformed to allow greater regional and cross-regional cumulation to reflect changed patterns of production and the developmental aspirations of the ACP states (Paragraph 41)

Changes to the EC sugar regime

14. While we understand the need for reform of the sugar regime, and commend the Commission for taking the first step in this regard, due attention must be paid to the implications of reform on ACP and LDC producers who have come to rely on the EU market. We encourage the Commission to ensure that adjustment/transitional assistance to the ACP can be used to build capacity outside of the sugar sector and welcome the Commission decision to have the adjustment mechanism up and running at the beginning of 2006. (Paragraph 50)

Policy coherence

15. We are concerned that the ACP are not being presented with a coherent set of policy choices from the EU, and invite the UK Government to address this issue without delay. (Paragraph 51)
16. If the Commission is committed to assisting the poorest and/or to using the LDC category, this commitment should run through all trade agreements which are on

offer to the LDCs. There should be no fundamental contradiction between policies to encourage regional integration and policies targeting the poor. (Paragraph 52)

17. We urge the UK Government to seek clarification from the Commission on this [regional integration] issue. Regional integration initiatives should emerge from within the ACP regions. The scope and pace of integration should likewise be decided by the ACP region. Donor countries have a responsibility to ensure that their policies are coherent, or aligned, with developing country choices. (Paragraph 53)
18. We would like to see evidence of a greater level of cooperation between DG Development and DG Trade (Paragraph 55)
19. The objective of poverty reduction should be central to the EPAs. We would like to see evidence that the EPAs will produce the desired poverty outcomes. (Paragraph 56)

Glossary

African, Caribbean and Pacific (ACP)

African, Caribbean and Pacific group of states which was constituted by the Georgetown Agreement (1975). There are now seventy-eight ACP states.

Cotonou Agreement

In 2000 the Cotonou Partnership Agreement replaced the Lomé Convention (see below). Cotonou will replace Lomé trade preferences with Economic Partnership Agreements.

Everything But Arms agreement (EBA)

Dating from 2001, and part of the GSP, the EBA gives LDCs duty free access for all their products (except arms) in the EU market. Other exceptions are sugar, rice and bananas which will gradually be permitted duty free entry from 2006.

Economic Partnership Agreement (EPA)

Essentially a regional trade agreement between the EU and different ACP regions. These will replace Lomé preferences gradually from 2008.

GATT Article XXIV

The Article which governs the terms and conditions under which customs unions and free trade agreements may deviate from the principles of Most Favoured Nation obligations.

Generalised System of Preferences (GSP)

The mechanism whereby the EU offers all developing countries some tariff reductions in its market for specified, non-sensitive products. That is, products which do not compete with EU producers—not bananas or sugar or many other agricultural products.

Least Developed Countries (LDCs)

Least developed countries as identified by the UN based on low *per capita* income, high economic vulnerability and weak human resources criterion based on nutrition, health, adult literacy and education.

Lomé Convention

The agreement between the EU and ACP from 1975–2000. Lomé's trade regime allowed ACP states preferential access to the EU market including duty-free access for all industrial products, and most tropical agricultural and mineral products. The ACP did not have to open their markets to the EU. In addition, there were special Protocols for bananas, sugar, beef and rum which guaranteed access to the EU market for specific quotas of these products.

Most Favoured Nation (MFN)

The principle that all trading partners should be offered equal treatment, as if they were your most favoured trading partner.

Middle Income Country (MIC)

The World Bank and OECD classify countries as low-income, middle-income or high-income on the basis of their Gross National Income (GNI), calculated using the World Bank Atlas method. The 2004 classification, based on GNI data for 2002 establishes the following per capita thresholds: low-income country, US\$735 or less; middle-income country US\$736 to US\$9,075; high-income country US\$9,076 or more.

Special and Differential Treatment (SDT)

The principle in the WTO that developing countries can be accorded special privileges or exemptions in the application of WTO rules. SDT is regulated under Part IV of the GATT.

Singapore Issues

Agreed initially at the WTO Ministerial in Singapore these are: trade and investment, competition policy, transparency in public procurement and trade facilitation.

World Trade Organisation (WTO)

The body which replaced the GATT in 1995 to facilitate, administer and implement multilateral and plurilateral trade agreements.

Formal minutes

Wednesday 23 March 2005

Members present:

Tony Baldry, in the Chair

Mr John Bercow
Ann Clwyd
Mr Quentin Davies

Mr Piara S. Khabra
Tony Worthington

The Committee deliberated.

Draft Report (Fair trade? The European Union's trade agreements with African, Caribbean and Pacific countries), proposed by the Chairman, brought up and read.

Ordered, That the Chairman's draft Report be read a second time, paragraph by paragraph.

Paragraphs entitled 'Summary' read and postponed.

Paragraphs 1 to 58 read and agreed to.

Postponed paragraphs entitled 'Summary' read again and agreed to.

Glossary agreed to.

Resolved, That the Report be the Sixth Report of the Committee to the House.

Ordered, That the Chairman do make the Report to the House.

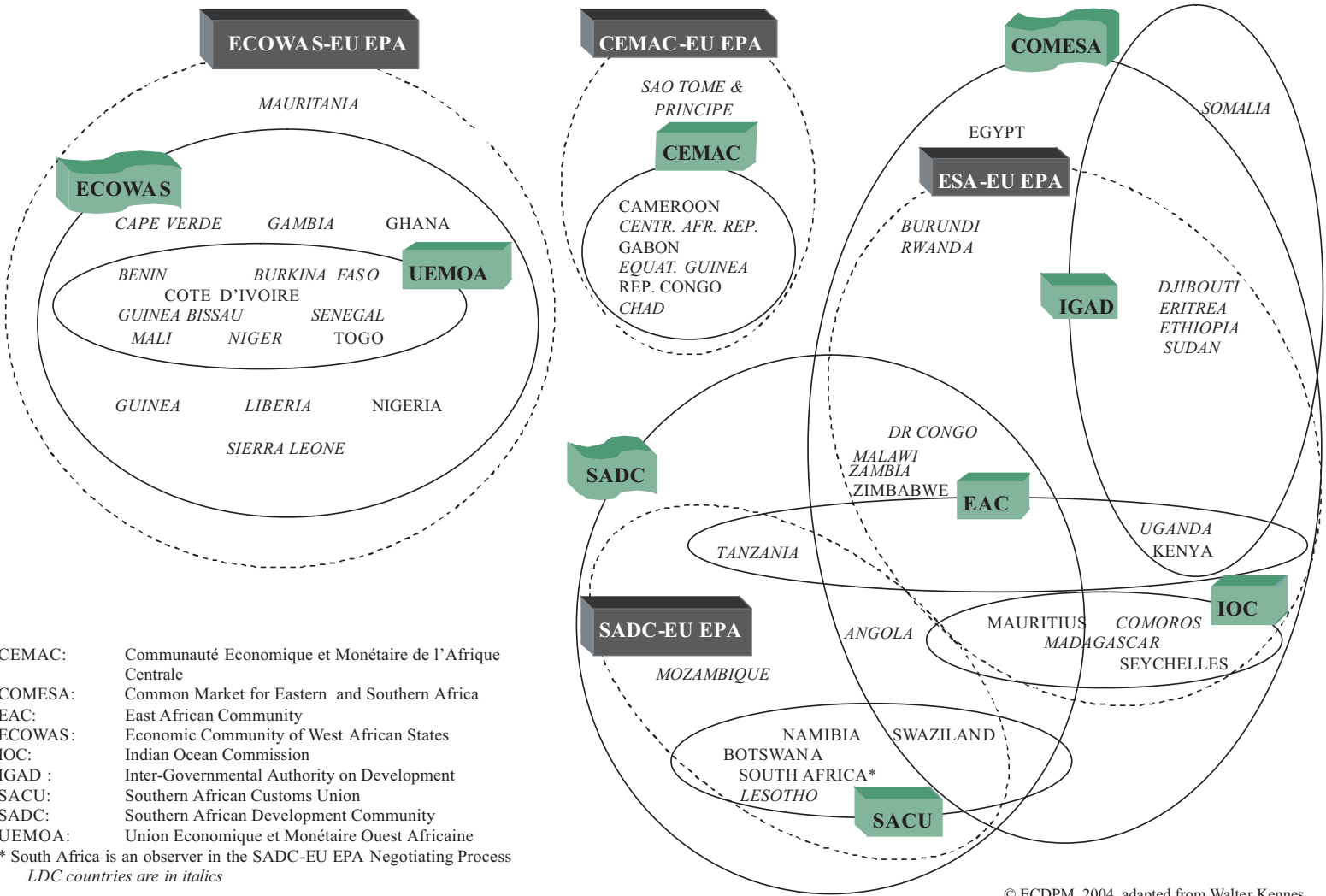
A paper was ordered to be appended to the Report.

Ordered, That the provisions of Standing Order 134 (Select committees (reports)) be applied to the Report.

Several papers were ordered to be reported to the House.

[Adjourned till Tuesday 5 April at 2.30pm.]

Appendix: African Regional and Sub-Regional Economic Integration Groupings and the Regional Economic Partnership Agreement (EPA) Negotiations Configurations



CEMAC: Communauté Economique et Monétaire de l'Afrique Centrale
 COMESA: Common Market for Eastern and Southern Africa
 EAC: East African Community
 ECOWAS: Economic Community of West African States
 IOC: Indian Ocean Commission
 IGAD: Inter-Governmental Authority on Development
 SACU: Southern African Customs Union
 SADC: Southern African Development Community
 UEMOA: Union Economique et Monétaire Ouest Africaine
 * South Africa is an observer in the SADC-EU EPA Negotiating Process
 LDC countries are in italics

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 Source: European Centre for Development Policy Management (ECDPM)

Witnesses

Tuesday 30 November 2004

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Ms Dianna Melrose, Head, International Trade Department, Department for International Development (DFID), and **Ms Amanda Brooks**, Director, Trade Negotiations and Development, Department of Trade and Industry (DTI) Ev 1

Dr Christopher Stevens, Research Fellow, Institute of Development Studies (IDS), **Ms Jane Nalunga**, Country Director, Southern and Eastern African Trade Information and Negotiations Institute, (SEATINI), Uganda, **Mr Matthew Griffith**, Trade Policy Analyst, CAFOD, **Mr Michael Gidney**, Director of Policy, Traidcraft, and **Ms Dianna Melrose**, Head, International Trade Department, DFID Ev 8

Monday 7 February 2005

Rt Hon Peter Mandelson, European Commissioner for Trade, **Mr Roger Liddle**, Member of the Cabinet of Commissioner Mandelson, and **Mr Claude Maerten**, Head of Unit, Directorate General Trade, European Commission Ev 15

Thursday 24 February 2005

Mr Louis Michel, European Commissioner for Development and Humanitarian Aid, and **Mr Lawrence Meredith**, Member of the Cabinet of Commissioner Michel

(This evidence session also looked at *The Future of EU Development Policy*) Ev 26

List of written evidence

Department for International Development (DFID) and Department of Trade and Industry (DTI)	Ev 32
DTI	Ev 38
Non-Governmental Organisations (ActionAid, ACTSA, CAFOD, Christian Aid, One World Action, Oxfam GB, and Traidcraft)	Ev 39
The Biscuit, Cake, Chocolate and Confectionary Association (BCCCA)	Ev 50
Dr Stephen Dearden, Department of Economics, Manchester Metropolitan University	Ev 51
LDC (Least Developed Countries) London Sugar Group	Ev 52
Ian Gillson, Sheila Page and Dirk Willem te Velde, Overseas Development Institute (ODI)	Ev 55
Adrian Hewitt, ODI	Ev 66
UK Industrial Sugar Users Group (UKISUG)	Ev 67

List of unprinted papers

Additional papers have been received from the following and have been reported to the House but to save printing costs they have not been printed and copies have been placed in the House of Commons Library where they may be inspected by Members. Other copies are in the Record Office, House of Lords and are available to the public for inspection. Requests for inspection should be addressed to the Record Office, House of Lords, London SW1 (Tel 020 7219 3074). Hours of inspection are from 9:30am to 5:00pm on Mondays to Fridays.

Speeches by Commissioner Peter Mandelson, DG Trade, European Commission:

Putting development first: EU-ACP relations, EPAs and the Doha Round, Press conference, Georgetown, Guyana, 6 January 2005

Economic Partnership Agreements: putting a rigorous priority on development, Civil Society Dialogue Group, Brussels, 20 January 2005 (speech and memorandum)

Trade at the Service of Development, London School of Economics, 4 February 2005

DFID:

Standard letter issued by DFID on Ghana and the tomato industry

Christian Aid Trade justice campaign case study: *Ghana: tomatoes: A rotten trade: Ghana's tomato farmers face unfair EU competition*

Response to the consultation on the future of EC development policy: issues paper

DTI:

Commission Green Paper on the future of rules of origin in Preferential Trade Arrangements: the UK Response

Oxfam:

Supplementary memorandum submitted by Penny Fowler, Trade Policy Adviser, in response to Q48

OECD:

Gallezot J., Bureau J.C. (2004). *The Utilization of Trade Preferences: The Case of Agricultural and Food Products in the EU and the US*, Organisation for Economic Co-operation and Development, Paris.

Reports from the International Development Committee since 2001

The Government Responses to International Development Committee reports are listed here in brackets by the HC (or Cm) No. after the report they relate to.

Session 2004–05

First Report	Commission for Africa and Policy Coherence for Development: First do no harm	HC 123
Second Report	Work of the Committee in 2004	HC 326
Third Report	DFID's Bilateral Programme of Assistance to India	HC 124-I and II
Fourth Report (First Joint Report)	Strategic Export Controls Annual Report for 2003, Licensing Policy and Parliamentary Scrutiny	HC 145
Fifth Report	Darfur, Sudan: The responsibility to protect	HC 67-I and II

Session 2003–04

First Report	Trade and Development at the WTO: Learning the lessons of Cancún to revive a genuine development round	HC 92–I and II (HC 452)
Second Report	Development Assistance and the Occupied Palestinian Territories	HC 230–I and II (HC 487)
Third Report	International Development Committee: Annual Report 2003	HC 312
Fourth Report	Kenya: DFID's Country Assistance Plan 2004–07 and Progress Towards the Millennium Development Goals	HC 494 (HC 857)
Fifth Report (First Joint Report)	Strategic Export Controls Annual Report for 2002, Licensing Policy and Parliamentary Scrutiny	HC 390 (Cm 6357)
Sixth Report	Migration and Development: How to make migration work for poverty reduction	HC 79–I and II (HC 163, Session 2004–05)
Seventh Report	DFID's Agriculture Policy	HC 602 (HC 1273)
Eighth Report	Department for International Development: Departmental Report 2004	HC 749 (HC 327, Session 2004–05)

Session 2002–03

First Report	Afghanistan: the transition from humanitarian relief to reconstruction and development assistance	HC 84 (HC 621)
Second Report	International Development Committee: Annual Report 2002	HC 331
Third Report	The humanitarian crisis in southern Africa	HC 116–I and –II (HC 690)
Fourth Report	Preparing for the humanitarian consequences of possible military action against Iraq	HC 444–I and –II (HC 561)

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Fifth Report (First Joint Report)	The Government's proposals for secondary legislation under the Export Control Act	HC 620 (<i>Cm 5988</i>)
Sixth Report (Second Joint Report)	Strategic Export Controls Annual Report for 2001, Licensing Policy and Parliamentary Scrutiny	HC 474 (<i>Cm 5943</i>)
Seventh Report	Trade and Development at the WTO: Issues for Cancún	HC 400-I and II (<i>HC 1093</i>)
Eighth Report	DFID Departmental Report 2003	HC 825 (<i>HC 231</i> , <i>Session 2003-04</i>)

Session 2001-02

First Report	The humanitarian crisis in Afghanistan and the Surrounding Region	HC 300-I and -II (<i>HC 633</i>)
Second Report	The Effectiveness of the Reforms of European Development Assistance	HC 417-I and -II (<i>HC 1027</i>)
Third Report	Global Climate Change and Sustainable Development	HC 519-I and -II (<i>HC 1270</i>)
Fourth Report (First Joint Report)	Strategic Export Controls: Annual Report for 2000, Licensing Policy and Prior Parliamentary Scrutiny	HC 718 (<i>CM 5629</i>)
Fifth Report	Financing for Development: Finding the Money to Eliminate World Poverty	HC 785-I and -II (<i>HC 1269</i>)
Sixth Report	DFID: Departmental Report 2002	HC 964 (<i>HC 357</i> , <i>Session 2002-03</i>)

Oral evidence

Taken before the International Development Committee

on Tuesday 30 November 2004

Members present:

Tony Baldry, in the Chair

John Barrett
Mr John Battle
Hugh Bayley

Mr John Bercow
Tony Worthington

Witnesses: **Ms Dianna Melrose**, Head, International Trade Department, Department for International Development (DFID) and **Ms Amanda Brooks**, Director, Trade Negotiations and Development, Department of Trade and Industry (DTI), examined

Q1 Chairman: Thank you very much for coming. Just to put this into context, this is a single evidence session in which we are taking evidence from senior officials in DFID and DTI on Cotonou and how we all think the Cotonou negotiating process is proceeding, what do we see as the UK's role in this, and we are also going to take evidence from NGOs. The usual thing, Dianna, if you and Amanda want to work out who is going to answer questions, and speak up because some of us are deaf, and the acoustics are awful. For most of us very often in connection with ACP¹ we hear much more about the C in the ACP than either the A or the P—that is the Caribbean. For us the Caribbean is perplexing in that 25% of the membership of the Commonwealth is in the Caribbean; often quite small islands; many of them technically middle income countries but actually, very often, dependent on one or two crops, not least bananas from Dominica and so on. There is a DFID office in Kingston, I think?

Ms Melrose: Yes.

Q2 Chairman: In the past part of our deal when we joined the Common Market—that is us and the French—was that we sought to look after former colonies in the Caribbean. They have a collective feeling that they have been slightly forgotten, and I just wondered if you could give us a kind of philosophical view, whether DFID's view is that if they are middle income countries then they are middle income countries, they have to take their chances, what we are really concerned about is the poorest of the poor and there is a purist approach to Cotonou just as there is to WTO, or do we still have particular collective concerns for Commonwealth countries in the Caribbean, overseas territories in the Caribbean and when one is thinking of a hierarchy of policy priorities how do they fit in? We have quite a lot of technical questions, but unless one understands the background against which they are seen they do not make much sense. Perhaps you could help us on that.

Ms Melrose: In terms of the overview, obviously, Africa is the big priority and in terms of DFID's allocation of assistance, as you know, 90% will go to the Least Developed Countries (LDCs). However, we do have very significant concerns about the vulnerability of the Caribbean economies, the small island states, which will be hit hard by loss of preferences and particularly by reform of the Sugar Regime. In terms of the Foreign Office, they are also looking at the security dimension, particularly in relation to Jamaica, because they will suffer a lot from the loss of getting paid three times over the world market price for sugar. They do have a lot of access to politicians here and we are actively working with the Caribbean—in fact, DFID funds the Caribbean trade Regional Negotiating Machinery and we are in active discussion to help them on both sugar and Economic Partnership Agreements (EPAs).

Q3 Chairman: Do you think that HMG collectively should be batting for the Caribbean Commonwealth or do you see this as a position whereby these are trade negotiations which have got to go on regardless and maybe the Foreign Office does a bit at the edges to help some of our Commonwealth colleagues to more effectively negotiate?

Ms Melrose: I think that in the longer term the writing is on the wall for preferences that have really done the Caribbean no good. Jamaica is subsidising its sugar industry which really has no future in terms of export competitiveness. As to how we work with the Caribbean, obviously their position is to say no, no, no to change, although they know that it is inevitable. So it is not for us a question of letting them carry on with no change, no diversification, but really getting some timely assistance to help them diversify and compete in a changing market. That said, it is not easy for them, and what they might diversify into is an area that we are researching; it is difficult.

Q4 John Barrett: Can I follow up on that and ask if there is a conflict or a problem with the Regional Trade Agreements trying on the one hand to provide reciprocity and preferential access to EU markets,

¹ African, Caribbean and Pacific (countries)

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while at the same time including reciprocity in the WTO in the EPAs which are being developed. The way I see it, there are two contrary developments going on, on the one hand saying that preferential access must be maintained but at the same time moving towards a different state of affairs. Is there a conflict there?

Ms Melrose: I think there are some huge challenges posed. The whole thrust of EPAs is supposed to be, as you know, to reduce poverty, to promote sustainable development, importantly to integrate those economies into the world economy and at the same time to promote regional economic integration. The latter is the emphasis of this phase of negotiations. However, you are quite right to say that variable geometry of regional organisations and the fact that you have LDC and non-LDC members of the different regions, does make it very complicated. I hope we sent you our spaghetti soup—²

Chairman: You did.

Ms Melrose: Which shows you the problems. For example, if you are Tanzania you are a member of the East African Customs Union, the Southern African Development Community (SADC) and an LDC. So you do face some real challenges. Obviously, as an LDC you benefit from EBA quota-free and tariff-free access to the EU markets, and in relation to EPAs you have a choice to say that you do not want to negotiate an EPA. But if you do that—in other words not need to move towards giving reciprocal market access to the EU—that really makes things very, very complicated in terms of integrating into a region. As you know, these are small economies and regional market integration is very significant to them. So it is a dilemma, but basically it is their choice and our aim would be to work with the ACP to help them make an informed choice.

Ms Brooks: Can I add on to that? Preferences are a short term granted mechanism for developing countries, there is no guarantee that they will be there in the long term, whereas Regional Trade Agreements do provide greater and longer term assurance of where the situation will be. So as we see preferences being eroded over time with multilateral negotiations and other things, Regional Trade Agreements obviously can give developing countries greater certainty about the environment in which they are operating.

Q5 John Barrett: With EPAs coming into play in 2008, and the need to look at what sectors, what markets, what time scales, who will make the decision as to what is recommended happens at what time?

Ms Melrose: That is all down to the negotiations. There was phase one which was ACP and EU-wide. Now they are into the regional groupings. But basically that is exactly what needs to be decided: what degree of reciprocity over what time, in which sectors, and obviously the impact will vary enormously. Our NGO friends have focused on the

concerns about reciprocity. Claude Maerten who is in the European Commission is leading on EPAs, and he has recently set out some possible scenarios for reciprocity—that is the extent of it—and it ranges from 67% for the Pacific to 83% for the Caribbean. So that just gives you a sense of the flexibility there is and what needs to be thought through. On the services side, there is no obligation to include reciprocal access on services. You have to opt in rather than it being an automatic assumption that service sectors are in.

Ms Brooks: The thing to add there is that the important point is that it is not one size fits all for each of the regional groupings, it is for each regional grouping to discuss with the EU which sectors and products they wish to look at in particular, so there will not be a common overprint across all of the regional groupings, it will be specific to them.

Q6 Mr Battle: Could I ask a bit about the alternatives to Economic Partnership Agreements—if you cannot get one, what else will you do? I was interested in Amanda's comment that Preferences are short term; 30 years ago I was slightly involved in the drawing up of the Sugar Protocol that was attached—

Ms Brooks: And that has proved to be anything but short term.

Q7 Mr Battle: That was supposed to be very short term but it has lasted 30 years and done a lot of destruction in its time in some ways. In the Cotonou agreement it states that any ACP country or region not wishing to pursue an EPA should be offered an alternative arrangement which is at least as good as that offered under existing preferences. It is just to tease out what are these alternatives and how good could they be, and can they be inserted in this short term regime while we get to the long term some time, some day. Given the limits of the GSP, the fact that they are not contractual, there are very restrictive Rules of Origin as we all know, it will not prove possible to offer all developing countries Everything But Arms access, so what steps is the Government taking to ensure that there is a viable alternative that really does offer at least as good as?

Ms Brooks: Firstly it is important to put into the domain that the Commission had agreed to look at alternatives and at the ACP request have agreed now to postpone doing so until 2006. The Commission are very much putting the emphasis on allowing negotiations to progress before they begin to develop alternatives. That said, we do recognise the need to fulfil that commitment; Dianna will no doubt talk a little bit more about some research that DFID are going to undertake to look into those, but in essence at the moment the alternatives might either be GSP or GSP+, which is currently being renegotiated. The difficulty is that these negotiations cover the time span up to the start of EPAs but not beyond them. So we are not quite able to compare like with like at the moment, given that we do not know the content of EPAs and also we do not know the finalised context of the new renegotiated GSP and GSP+ schemes.

² See page 28 of the Committee's report

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Q8 Mr Battle: That is fair enough and, accepting that, I would still be insistent if you like that we keep the developmental perspective and that it just does not go into the trade department or the agricultural department and development gets tagged on later, because even if we were to push for the opening up of the markets as provided by a more general system of preferences, then poverty alleviation might not necessarily result.

Ms Brooks: Indeed.

Q9 Mr Battle: Yet that is in the Cotonou Agreement, there is some rationale within the system to keep that as a focus. What will the Government be working on to ensure that alternatives to EPAs, the Economic Partnership Agreements, have that non-conditional, developmental aspect to them; in other words, you are still keeping your irons in the fire at the conference table?

Ms Melrose: I think you have hit on the essence of it, John. These have to be developmental and beneficial, and I think what is encouraging here is that Cotonou, as you know, makes very, very strong references that these must be good for development, good for the ACP, and that is repeated in the EU negotiating mandate and it is repeated in the Commission's utterances. So I think the first thing to say is that the Government is absolutely determined, it has committed itself in the White Paper, to make sure that these are development-led. Just to give you a sense of what is happening, there is weekly contact between ourselves and the people leading on EPAs within the Commission. Our Minister, Gareth Thomas, is in Brussels today talking about EPAs. So there is a lot of concern across the Secretaries of State that we need to deliver on this rhetoric, they must be development tools. So that is the first perspective. What does that actually mean concretely? In terms of what DFID is doing, we are working very closely with the ACP member states but also with other stakeholders like the NGOs to look at what are the alternatives, to really look in some detail. Amanda has already mentioned that GSP+ is a possibility; obviously what must underpin it all is special and differential treatment with EPAs and obviously the WTO, that is absolutely critical. So it is how you design them really and, importantly, they need to complement the poverty reduction strategies of the different countries. This raises the whole critical issue of assistance to the ACP—I do not know if you want me to cover that now or wait for subsequent questions, but that is absolutely critical and it needs to be timely and upfront—in other words learn from bananas and deliver that early and make it useful.

Mr Battle: That is very helpful, thank you.

Q10 Mr Bercow: Building on the exchange you have just had with John, I would like to know a little bit more about the mechanism that you have put in place to ensure that smooth transition to liberalisation and the priority of facilitating and not in any sense hindering or retarding the poverty alleviation objective. In asking you to tell the Committee a little more about how it will function,

perhaps I could just point out that I know the NGOs have lamented what they see as the fact that since 1993 there has been a very great increase in the export of EU food products to Africa, with damaging effects on local markets. I do not want to be a theoretical pedant, but can I in association with that question put to you this proposition: is it not the case that liberalisation is in danger of getting a bad name, when actually what is taking place is not really genuine liberalisation at all. There are many of us, you will appreciate, who are sympathetic to liberalisation, who recognise that it cannot take place all at once and that there is an argument for special treatment for poor countries and so on, but we think that it is a good thing. However, what is not acceptable, surely, is for developing countries to be forced to open their markets to heavily subsidised and dumped products from rich countries? That is what is objectionable, not the fact of liberalisation, but the fact that the rich countries are effectively playing a game of football in which they are allowed to have 11 players on the field including the goalkeeper in his position all the time, and they expect the developing countries to play with five players excluding the goalkeeper.

Ms Melrose: I think your analogy is spot on. It is a highly uneven playing field and the most stark illustration in terms of the ACP is cotton and the West African cotton producers which became a totemic issue in Cancún, for very good reasons. They have liberalised, they have got rid of their subsidies and, as one of their ministers put it here recently: "We can compete with US farmers but not with the US Treasury". So you are absolutely right. Again, we should not overlook the fact that the level of subsidies for sugar per farmer is even higher in the EU. We are determined that we must end trade-distorting subsidies, in terms of domestic support. The good news from the Commission is commitment that we need to agree an end date for export subsidies. This goes beyond what was in the Doha mandate. So absolutely, CAP reform and obviously similar reforms in other OECD countries are necessary. Where you mentioned concern over cheaper food flooding into ACP and other more vulnerable developing country markets, it is an issue, and this is why we are doing research in a number of areas. We are commissioning research from the Food and Agriculture Organisation jointly with ActionAid—we are going to work together—to look at a number of things. One is the impact of import surges—that is, what is the evidence from the past, i.e. what is the poverty impact and what can be done? We are also commissioning separate work on how a Special Safeguard Mechanism might be developed within the WTO that will protect the livelihoods of vulnerable and developing country producers and protect their rural developments; similarly with Special Products, how do we define these, how do we designate them so that they are really targeted at crops that are really essential in terms of poverty, whilst avoiding the sort of abuse where country X declares 600 products as special products and as a result there is no liberalisation. I am encouraged to see that the Commission has

actually talked in the EPAs context and certainly has not ruled out the need for some sort of special safeguard mechanism there. With EPAs there is everything to play for, nothing is closed at this stage. Working backwards, on the smooth transition to liberalisation, you are absolutely right. I think probably the most worrying area is the fiscal one: that if the ACP or indeed the WTO negotiations forced the ACP, particularly African countries, to reduce their tariffs too fast, they would have a huge problem in terms of their revenue. The World Bank has come up with some figures and it looks extremely grave from their evidence, where they have estimated that offering the EU duty free access would incur losses amounting to 1% of GDP and 7 to 10% of government revenue for sub-Saharan Africa. Obviously, therefore, you need to pace tariff reductions and you need assistance for substantial fiscal reform. That is not the only area. I would like at some point to say what funding mechanisms there are because I think it will be an issue of particular concern for you that the EDF does not get raided. That is a long answer, but should I cover that issue now?

Q11 Mr Bercow: It is an extremely helpful answer. Had you finished?

Ms Melrose: Except for the funding sources.

Q12 Mr Bercow: Yes?

Ms Melrose: In relation to funding, basically it is premised on the suggestion that money should be upfront now, that you need the support for transition now. There are different dimensions to it: the Commission and ourselves are already assisting the ACP in terms of evidence for the negotiations. But in terms of the much more significant, big, supply side export competitiveness changes that we need to see, EDF has been fingered. Technically, it would be possible to include funding for the ACP as part of EDF10 and the increases expected in EDF10. The negotiations are starting in January. But DFID's view is why raid the EDF? That has a clear development purpose as have EPAs but it is heavily committed to social sectors and others. Our view is that it would be much better to use the European budget, and it would seem that one of the six new instruments—the Development and Economic Co-operation instrument—makes a lot of sense. That would mean increased money under the new Financial Perspective. The only concern there is that this is money mainly allocated to Asia and Latin America and Africa only gets 10%, so there could be an issue there. One final thing to flag up, the UK as you know is very keen to see conditionality attached to EDF in terms of good governance and properly targeted development, but we certainly would not want to see any new conditionality attached to implementing trade reforms. Basically, the work needs to be done, we need a dialogue with the Commission, but it is obviously helpful if the Committee and others can be saying do not let us rob Peter to pay Paul.

Q13 Mr Bercow: Thanks very much, that is a hugely informative answer. Call me a bit of a cynic if you like, but I will believe that the European Union has abolished export subsidies when it is writ large on every wall in the Palace of Westminster, and therefore I just want to have some idea from you when you think that the people of Burkina Faso, Benin, Mali and Chad—the ones who variously depend for 30 to 40% of their export earnings on cotton—can obtain relief from the agreement that has been meted out to them by the European Union and the US cotton farmers? Then a quite unrelated question, what plans (if any) does the European Union have to include the temporary movement of migrant, mainly unskilled, labour in the EBAs; if there are no such grounds is it the intention of the British Government to advocate it?

Ms Melrose: I'll leave to DTI the difficult questions on when are we going to see an end to export subsidies, particularly on cotton?

Ms Brooks: The difficulty is that the Commission is now waiting for the parallel movement of other developed countries on export subsidies before they will commit to a final date. That is the broad position, and there is nothing that I have heard to the contrary, that there is any date for agreement within the Commission at the moment. They really are seeking that parallel movement before committing further to that. On cotton the situation is obviously slightly more complex. The Americans have just lost a ruling on cotton from the WTO Panel which will change the way that that is now taken forward, but I am not very *au fait* with the details on that, so if you want I can come back to you on that.³

Mr Bercow: Thank you, that would be most helpful.

Q14 Chairman: Then GATS?

Ms Melrose: It is included in Cotonou in the original agreement and in terms of what the ACP want, they see the issue of temporary movement of unskilled labour as particularly important. Certainly from a Government perspective, Mode 4 is incredibly important in the WTO Round. Our problem is the political realities that certainly our ministers are well aware of Mode 4. But it is difficult, not just in the UK of course but in other EU countries.

Q15 Tony Worthington: Can I turn to the Singapore issues, the new issues? Perhaps you could clarify what it says in the brief for us—this was through Pascal Lamy—that the EU as a whole has made clear that we do not have “offensive” market access objectives. What does that mean?

Ms Brooks: That is where the European Union is seeking opportunities for its own businesses effectively, so opportunities that will bring a benefit directly to European Union businesses as opposed to beneficiary countries.

Q16 Tony Worthington: I do not understand that really. We would want to trade with these countries, would we not?

³ Ev 38

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Ms Melrose: It is basically pushing mercantilist interests rather than putting the interests of the ACP as the first thing, on the development criteria, rather than what can we get out of it.

Q17 Tony Worthington: How can the Government speak for private industry and saying you are going to be thinking about the good of a developing country rather than whether you can make a buck out of it?

Ms Melrose: It is no different, surely, to the Doha Round where the Government has committed to a good development outcome, which certainly UK industry shares. We have just started talking to the CBI and others about EPAs, really to ask them are the new issues of interest to you or is this not something you are pushing? In terms of the new issues themselves, it is true that from Phase One the ACP expressed concerns about the inclusion of new issues. At the same time we obviously cannot treat all the ACP as monolith: different regions have very different views. For example, the Caribbean are very keen to start looking at an investment agreement sooner rather than later, as are COMESA⁴, and this is because in terms of regional integration they are very clear that they need some common investment rules. So we cannot give a blanket answer that the ACP as a whole objects to the new issues; it is not the case, there are different views. I should have said investment and competition issues were in Cotonou, but the one area where we really will have more of a dialogue with the Commission is over government procurement because here the EU mandate does go beyond the Cotonou language: Government procurement does not actually feature in the Cotonou agreement, and the EU mandate goes beyond the proposed WTO agreement.

Q18 Tony Worthington: Coming out of Doha I thought there was an agreement, as one of the stumbling blocks had been the Singapore issues, to withdraw those.

Ms Brooks: That is exactly right.

Q19 Tony Worthington: So who is it that is pushing them?

Ms Brooks: You are exactly right, they were taken out of the Doha Development Agenda, they were withdrawn; however, the Cotonou Agreement was drawn up before the Doha Development Agenda was developed and investment, competition and trade facilitation were all put into that at that time, a year before, so that continues outside the WTO framework.

Q20 Tony Worthington: Surely we can have a situation where we are not bound by what we did a year ago?

Ms Melrose: Trade facilitation is not in EPAs and yet that is actually considered to be one of the most useful. I think the issue here is that you are quite right and our Secretaries of State are saying—certainly Hilary Benn has said—we want to see the

evidence for how these could be developmentally useful and in what way could investment and competition be usefully included in the EPAs negotiations. So it is basically a question of looking at what is useful. The other very important thing is that there is absolutely no need for each regional EPA to be the same. For example, ECOWAS⁵ and COMESA could say we want an investment agreement, whereas SADC can say no way, we are not interested. So there is some flexibility. The problem around inclusion of these new issues in the WTO—as your Committee were the first to flag up—is that this was just complete overload. They were nowhere on developing countries' priorities when so little progress had been made on agriculture. EPAs are different because some of the ACP members have expressed an interest in them; however, some were very hostile, so basically we need the ACP to say what they want, rather than the UK Government or indeed the NGOs.

Q21 Tony Worthington: I am still puzzled by this. There came to be a recognition at Doha that the new issues, the Singapore issues, were in the way, that this was not a development round, that this was in there because of our interests or someone's interest, it was not the developing countries' interests. Then we move to another forum where we say that development has to be at the centre of what we are doing here and these new issues are back in there.

Ms Melrose: I think part of the answer is that these are not, of course, multilateral negotiations. The point of Cotonou is to promote regional integration; let us say you are Tanzania within SADC and you want to promote regional integration, you are extremely interested in Foreign Direct Investment (FDI) from South Africa, and you may be more interested in that than from the EU, in which case—this is theoretical because I cannot recall what Tanzania's position on the investment agreement is—but that they are interested in South African FDI is definitely the case. They may within the region see that it is hugely to their advantage to have common rules for investment, competition and the other areas, but what you are concerned about is extending it towards the EU.

Q22 Tony Worthington: It seems to me that you are saying that there is no policy basically. You are negotiating something regionally and we are seeking some kind of regional agreement, but recognising that some of the developing countries will not put these issues on the table. At the end of it, it does not really mean anything, does it?

Ms Brooks: The issues are already on the table because they are part of the Cotonou Agreement, albeit that the Government has put them slightly to one side, given the concerns that Dianna has already raised. Therefore, in the Cotonou Agreement—which was negotiated before the Doha development round was commenced, different ACP groupings will have different approaches to the new issues. This will be part of the negotiations between the EU and

⁴ Common Market for Eastern and Southern Africa

⁵ The Economic Community Of West African States

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the regional groupings. How it differs to the multilateral round is that that would push much more the “one size fits all” approach, whereas in taking it by regional groupings the individual wishes can be tailored much more to the development needs of those regional groupings.

Q23 Chairman: I think what you are saying is that we are now into sort of three-dimensional chess. You have got the WTO negotiations from which the new issues were dropped, you have got the Cotonou Agreement where the new issues are still in place, everyone is having to negotiate these two completely parallel sets of negotiations simultaneously, under different rules.

Ms Brooks: Yes.

Q24 Chairman: If it is confusing for us it must be a complete and utter nightmare for developing and poorer countries, I imagine.

Ms Melrose: Absolutely. St Kitts and St Nevis’s trade minister said that he had four officials in his department and they were negotiating in the WTO, on EPAs, the Free Trade Area of the Americas and within CARICOM⁶. Yes, the capacity issues are real and it could be the capacity constraints that make different ACP regions a lot less interested in these issues. The point is that they are in Cotonou. But the regions do not have to agree them. One of the things that the EU is doing now is providing support for independent country level assessments where the ACP can look at their transitional needs. The ACP countries have also set up national development and training policy forums where they can bring together all the stakeholders—the private sector, NGOs—and that is just the sort of place where the ACP can identify what is in their interests. Our whole role is to support them in that, not to tell them what they need; at the same time it really is down to the regions now. We could ask why did not the Commission not take on board more of the ACP concerns in Phase 1 but the decision was to let EPA negotiations proceed.

Q25 Tony Worthington: Who is it within the EU who is pushing the new issues?

Ms Brooks: It is the Commission.

Q26 Tony Worthington: What is Mr Mandelson’s view on this? Is he pushing the new issues?

Ms Brooks: He as yet has not given any indication on this. He is meeting ACP ministers this week where, no doubt, EPAs in general and perhaps these issues will be discussed, but we are not party to those discussions at this end.

Ms Melrose: We have had some very good sessions with him where we have flagged up all these development concerns and he was certainly very receptive. It is a good question: when we asked industry who is really wanting investment and competition agreement, it was certainly not our industry.

Q27 Tony Worthington: So Lamy was out of control was he?

Ms Melrose: I think that is somewhat overstating it. He did have a mandate from the member states and Council and in Cancún the mandate was changed. There was certainly some controversy about what was agreed, but his mandate was changed so that he could take the new issues off the table.

Mr Bercow: I think we ought to get Mr Mandelson to appear before us⁷.

Chairman: We are hoping to find time when the Committee will go to Brussels and meet with the Commissioners at some stage, both on this and other issues. John.

Q28 John Barrett: If I could turn to the Everything But Arms Agreements, can you say why there has been a relatively poor uptake to this very generous access to market, and also what is the Government doing about it? Are there any proposals to increase the uptake of these by LDCs?

Ms Brooks: There is no single answer to that question. There are certainly some issues around Rules of Origin within the scheme which are quite restrictive. Many of the ACP countries, for example, choose to use the Cotonou preferences as their Rules of Origin are less restrictive and also they are familiar with them, they have been available to them for longer. But there are also supply side and capacity constraints within the countries to take these preferences up, so it is a whole host of factors and there is no single solution.

Ms Melrose: If I could just add to that, Rules of Origin are certainly a key area and one that we are very much hoping the UK can take up during its G8 presidency, because at the Evian summit one of the areas on trade where there was clear agreement was that Rules of Origin should not be allowed to get in the way of the take-up of preferences. As Amanda has said, the Rules of Origin are much worse under EBA, so what could the model be? Under the US Africa Growth and Opportunity Act they have got very relaxed Rules of Origin so that, for example, Lesotho is able to buy its cotton from very competitive suppliers in China and India, which means that their garments are very competitive and, as a result, their exports to the US have trebled within three years, and the garment sector is now the single largest employer and very important for women.

Q29 John Barrett: You could not do that under EBA?

Ms Melrose: It should be like that, but this is why we would really like to tackle Rules of Origin, not just to make them less restrictive but also to encourage export competitiveness in the long term and, built into Cotonou, is agreement that Rules of Origin will be revised. There is one other issue in terms of take-up and that is the growing problem of standards. Because of the ratcheting up of standards all the time, both by standard setting bodies within the EU but also within the supermarket sector, it becomes

⁶ The Caribbean Community (CARICOM)

⁷ Evidence session, Monday 7 February 2005

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harder and harder for some of the poorer countries to meet the standards or at the very least to demonstrate that they do. This is an area where we are giving assistance and there is now a Standards Trade and Development Facility that DFID is funding, but there is a lot more to be done on that, and perhaps more engagement with the private sector in this country could be helpful.

Q30 John Barrett: Is it an issue that these are non-contractual or temporary agreements?

Ms Melrose: The Rules of Origin?

Q31 John Barrett: No, the Everything-But-Arms Agreements.

Ms Brooks: I do not think that is the problem, it is really more to do with a combination of supply side capacity plus, to some extent, Rules of Origin. The Commission have run a consultation process over liberalising preferential Rules of Origin and that is currently under consultation at the moment.

Q32 John Barrett: And is the DTI pushing on that as well?

Ms Brooks: Yes, we recently submitted a full response to that⁸.

Ms Melrose: We are hoping that the more collegiate Commission will mean that the joining up is not just DG Development, DG Trade and DG Agriculture, but DG TAXUD and other DGs, particularly say on Mode 4. I forget which DGs, but there are a lot that impinge on trade and development.

Q33 Mr Battle: Just a final word on sugar really, there is a lot of pressure to reshape the Sugar Protocol. There was a phrase in it saying it would be of indefinite duration, but I think that has been translated to mean that it is of infinite duration. I worry about two things: one, a lot of focus is on the Caribbean and price, but many African countries were encouraged to move into sugar cane as a way of extending their reach in agricultural products and now they cannot get them in. What is the Government recommending for the protocol countries to help them either diversify or restructure, or compensate if they lose access to the market? Who will be giving them compensation as the Common Agricultural Policy already does to farmers in East Anglia, for example, and will that money come out of the development budget, if that is the arrangement?

Ms Brooks: The Commission have committed to producing an action plan to support those countries that are outside the EU and are affected by reform of the sugar regime. They have said that they anticipate that they will produce a first draft of that by the end of this year, but as yet we have received no detail of that. On the funding, we understand that that is due to come from the development budget, at the moment.

Ms Melrose: On sugar the UK wants to see significant reform because it will benefit some ACP countries that have lost out if they are non Sugar Protocol countries. However, the concern obviously is that some will be hit very hard—for example Guyana is going to be hit on sugar and rice, as will Jamaica. In terms of the action plan that Amanda mentioned, Margaret Beckett only last week was saying that while the Commission works up its proposals on sugar in the light of the WTO dispute settlement ruling, we must fast track work on the action plan. DFID has commissioned research on what is the best way to design transitional assistance so that it is timely, it is significant, it is meaningful and targeted. The Commission are saying “We are waiting on your research” so the UK actually has quite a major input. On the funding side, what has been discussed from 2007 is not EDF. The Commission communication has a rather esoteric footnote which talks about “mobilising the flexibility instrument”, or FLEX. This is the thing that replaced STABEX—the mechanism to help out when export earnings collapse. So they see that as coming into play up to the end of 2006, and following 2006 from within the new Financial Perspective. What they are suggesting is a thematic appropriation within the Development Co-operation and Economic Co-operation instrument, i.e. the EU budget. Essentially what has happened is that they have got about 60 different regulations—sorry this is all rather convoluted—which they are collapsing into a smaller number of thematic and geographical funding mechanisms. It is work in progress. The key thing for us, learning from the past, is to tackle slow disbursement, wherever the funds come from. Our strong preference is not to raid the EDF. Indeed, in an ideal world we would have liked to have seen the assistance come from CAP savings; however, our DEFRA colleagues are pretty convinced that there are not going to be any savings that can be transferred to the ACP. They are going to be transferred to EU farmers. So it is work in progress.

Q34 Chairman: I just have a couple of final questions. This is all fairly Nurofen-inducing stuff and there are eight of us who are looking at this. The idea that four officials from St Kitts and St Nevis or other states can manage all this and attend to other things—I was in Sierra Leone and there are only about three people running the country—I mean top senior civil servants for competency-based reasons—because of conflict a lot of people have left. I am interested in a couple of things; firstly, is there a coherent piece of text by way of speech or anything which sets out HMG’s overarching objectives on Cotonou?

Ms Melrose: Not a recent one, but I can foresee there being one on EPAs.

Q35 Chairman: I can foresee the tabling of a Parliamentary question on exactly that point, which I think would be helpful. You have been brilliant on the detail and we are very grateful to you but what I feel I have not got at the end of this session—and I

⁸ Commission Green Paper on the Future of Roles of Origin in Preferential Trade Agreements: UK Response. Copy placed in the Library.

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do not know how my colleagues feel, and this is no criticism of you—is a sense of what are our overarching objectives and how do they fit in? Maybe we can assist that—

Ms Brooks: Could I just clarify, there is actually, it has been handily passed from behind me, and it is in our White Paper. There is a very clear statement there.

Q36 Chairman: Maybe you could share that with the Committee, because it is always good in a collective Government to share something with the other partners, so if you could let us have that.

Ms Brooks: We will do that.⁹

Ms Melrose: There is no problem with the overarching objectives because the Government will always stress to you development, development, development. The question is what does that mean in practice in EPAs? So I am afraid this is where you do get into neuralgic detail.

Q37 Chairman: Maybe we will still table a question to DFID and maybe then DFID can translate it into DFID-speak. The second point is I think there was a lot of talk at the time of the WTO discussions about HMG helping these countries with capacity for the WTO talks. It seems to me that these discussions are as complex as certainly the WTO negotiations, and I sense that the WTO negotiations are organised around quite big groupings and so people can hide in these groupings; here in the ACP it seems that you have all sorts of groupings coming apart because they have different interests, or they have not got the same interests they had when they were originally set up 20 or 30 years ago. Maybe we might also table a Parliamentary question to ask what we are doing in

terms of helping on capacity issues, capacity assistance, for particularly the smaller countries that might be affected by the Cotonou Agreement in terms of hard cash, in terms of seconded officials and so forth, all those people we are losing under the Gershon, there are some places they can be sent off to. I mean that seriously—

Ms Brooks: Volunteers.

Q38 Chairman: Yes, volunteers. It would be fascinating to go to assist and would be very worthwhile, because when ACP was first negotiated, a lot of the negotiation was done by European Union countries seeking to deliver on what they believed was the mandate to disengage, but that is not now the case. We would welcome some thoughts on that. Is there anything that we have missed out that you think in your wonderful briefing—I do not mean to be pejorative—your very full briefing note we should have asked you about? Is there anything you would like to unburden yourself of?

Ms Melrose: I would like to add to your last point. You will see in paragraphs 41 and 42 of our evidence¹⁰ that we have given some details of what the UK is already doing, including EPA-specific capacity building support for the ACP through the European Centre for Development Policy Management. I would just like to mention that we are also developing a programme of research on how EPAs might work for the ACP. I cannot stress enough that our Secretaries of State want to know what the ACP Governments want rather than have anybody in this country tell them what they want. So the Government is listening and responding to their needs.

Chairman: Thank you very much indeed.

Witnesses: **Dr Christopher Stevens**, Research Fellow, Institute of Development Studies, **Ms Jane Nalunga**, Country Director, Southern and Eastern African Trade Information and Negotiations Institute (SEATINI), Uganda, **Mr Matthew Griffith**, Trade Policy Analyst, CAFOD and **Mr Michael Gidney**, Director of Policy, Traidcraft, examined, and **Ms Dianna Melrose**, Head, International Trade Department, DFID, further examined.

Q39 Chairman: Thank you very much for coming and helping us out. If I can make a few general points, if you would like between you to decide who will answer the questions, I think there are one or two which might just be directed to one of you, you might all want to answer one, or some of you might just want to answer. Secondly, if you could be very kind and help us by speaking up because the acoustics are not brilliant. Having heard officials give their evidence, are there any general overarching themes that you want to pick up by way of general statements to set them in context. Michael, do you want to start and then Matthew?

Mr Gidney: Thank you. First of all, we welcome the chance to come and talk to you and also we welcome your scrutiny of EPAs: we think it is very timely and necessary. I think you put your finger on it in your

last questions to the officials—it is our view that we lack a really coherent Government policy towards EPAs in terms of vision, but also in terms of how that vision is going to be realised. This policy should explain how the statements on development which are in the Cotonou Agreement and in the EC's negotiating mandate are going to be translated into action, and how we are really going to know before the conclusion of negotiations that the intended development outcomes are going to be achieved. Very specifically, we have some quite serious differences of opinion with the Government's position on the inclusion of the "new issues" in EPA negotiations, which I think various of us might wish to talk about. I will just make one comment and then pass over to Matt. The officials were saying just now that as related to the "new issues" it is up to the ACP to tell us what they want; but it is our view that the ACP have told us very clearly what they want. Your

⁹ See pages 96–100, DTI: *Trade and Investments White Paper 2004: Making globalisation a force for good*. Available at <http://www.dti.gov.uk/ewt/whitepaper.htm>

¹⁰ Ev 37

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suggestion that this is three-dimensional chess, ie over-complicated, is right, but I do not think it needs to be seen as being as complicated as that. Possibly there is a certain amount of deliberate muddying of the waters by the Commission, because the ACP have made it very clear in their negotiating mandate on EPAs and also in their statement reviewing Phase 1 of the negotiations that they do not want to negotiate on “new issues” at all now, as this has been their position at the WTO. It is a point of stated fact.

Q40 Chairman: Right.

Mr Griffith: Just an initial request, we would value it if you tabled a question asking the Government for their position. The White Paper that is going to be forwarded to you I think is six or seven paragraphs and it does not flesh out a lot of the questions that we will be asking. I would also specifically like to pick up on some points that were made on the Singapore issues around ACP opposition and what was agreed at Cotonou. Amanda mentioned that the new issues were included in Cotonou, but it is important to look at the detail of how they were included. Of the four issues, three were included but they were mentioned in the context of development co-operation and regional integration, they were not mentioned in the context of trade negotiation based on a principle of non-discrimination, which is how they were included in the European Union negotiating mandate. The fourth, Government procurement, is not in the Cotonou agreement at all. It is also worth looking at the differences between what the Cotonou agreement says and what the European Union negotiating mandate says. We have a couple of examples. The Cotonou agreement around investment talks about co-operation “aimed at creating a more favourable environment for private investment”, but the EU negotiating mandate goes much further and asks for “a regulatory framework based on principles of non-discrimination, openness, transparency and stability”. The second one, on Government procurement, Cotonou does not make any reference to it, as already stated, but the EU negotiating mandate asks for “progressive liberalisation of procurement markets on the principle of non-discrimination”. From our point of view those are clearly offensive interests, they have been opposed by the ACP at the all-ACP level, and we think the Government should put pressure on the Commission to drop them.

Dr Stevens: I think the discussion on new issues illustrates a much more general problem which would be greatly reduced if the Government were to make a very clear and detailed statement of what it wishes to see in an EPA. The general problem is that the ACP are negotiating under considerable duress; they do not want these negotiations but they are faced with the prospect that unless they come to a conclusion by the end of 2007, or these ephemeral alternative arrangements are in place, then they will have imposed upon them significant market access barriers for their exports to the EU, and in the case of new issues what they fear is that the EU will twist

their arm to accept within EPAs things that they would never have to accept on the more level playing field negotiating environment of the Doha Round. The official position is that these fears are misplaced, and I do not necessarily think these official views are incorrect. I do not think that the European Union is hell-bent on forcing ACP countries to do highly undesirable things, but if I were an ACP minister I would fear the worst because there have been no statements of what the European Union want in specific terms, and if these negotiations are to take place in a reasonable atmosphere and come out with a good development solution, then the worst fears have got to be alleviated, and they can easily be alleviated by ideally a European Union statement and, failing that, a Government one of the maximum that the EU will be looking for. For example, in the earlier discussion we talked about the undesirability of countries being forced to accept dumped agricultural exports from the EU and it was suggested that a special safeguard clause should not be ruled out. Why not say it should be definitely ruled in, that all EPAs will contain provisions that would allow Governments which wish to do so to restrict the imports of goods which are being sold below the cost of production? That would go a long way to getting some sort of Governmental statement to reinforce the information we were given from the Commission officials that the degree of reciprocity would range between I think it was 70% and 83%. That would do a great deal to calm the atmosphere and allow the negotiations to focus on specifics.

Chairman: I think that is a good point for you, John, to ask your point about the relationship between Cotonou and Doha.

Q41 John Barrett: Given the issue of WTO compatibility which features quite strongly in the EU’s negotiating mandate and given the delay in the conclusion of the Doha Development Agreement, what would be the benefits and the disadvantages of postponing the conclusion of EPAs until after the completion of the WTO Round?

Dr Stevens: If it were feasible it would be quite desirable for a whole range of reasons. There is a strong economic case to be made that the benefits from liberalisation, to the extent that they exist, result from multilateral liberalisation and not strictly liberalisation towards a specific trading partner, so to build upon the outcome of Doha rather than to try and pre-judge the outcome would be desirable. Secondly, of course, the rules within which these EPAs are trying to be convoluted might well have changed and, thirdly of course, it would remove this deadline of the world as we know it coming to an end on 1 January 2008. The practical problem is that the reason why we are in negotiations is because of the increased difficulty of obtaining waivers which have, over the history of GATT, been the traditional way in which industrialised countries justified preferential trade agreements, and the waiver expires in 2007. Again, in practical terms it would take at least two years for any challenge to a continuation of preferences to go

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through the WTO system, so even without an extension to the waiver it is probably possible to continue with the current regime until 2009, and one can think of all sorts of little ruses which would extend that possibility, such as, for example, agreeing EPAs which had a phase one for immediate implementation under which ACP agreed to reduce to zero all the products which they currently have zero tariffs on, and left to a decision within the next five years the next phase. If the EU were willing it could find ways to extend the lifetime of the current regime in order to allow negotiations to finish after the Doha Round.

Mr Gidney: I would like to add that there could be some very significant logistical as well as development gains from phasing the negotiations in this way, because it was always the intention, of course, that EPAs would follow on from what was agreed at the WTO. The Cotonou Agreement, talks about negotiations “remaining in conformity with WTO rules then prevailing”¹¹; at the moment we are asking the ACP to hit a moving target because of course the DDA¹² is not complete and so we do not know the circumstances which are “prevailing”, and it is impossible therefore to predict. Ultimately decisions about phasing the negotiations should be up to the ACP and we would expect the ACP to have a line on this. It is not for us to tell the ACP how it should conduct their negotiations.

Q42 John Barrett: I wonder if you could just elaborate on why the revised GSPs fall short as an alternative to EPAs and what could be done to make these into a viable alternative?

Dr Stevens: To the extent that there exists an alternative, the only one on the horizon at the moment is the GSP, hence the need to try and make it in some way an adequate alternative, but it is a difficult beast to make adequate because its basic rationale is to treat all developing countries the same, except you can treat Least Developed Countries more favourably than other developing countries, and a large part of the value to the ACP of the Cotonou Agreement is that they are treated better than some other developing countries like Brazil or Malaysia. The only obvious way in which the current proposed new GSP for the period up to 2008 could be made a halfway acceptable alternative would be if all the ACP countries or a majority of them were classified for inclusion under a special prong to the proposed GSP which would provide a special incentive for countries which satisfy a range of labour, social and environmental standards. Even if that went ahead though, there would be at least three shortcomings to GSP; one is that there is no guarantee that this proposed special regime will be shown to be WTO-compatible. The reason why it has been created is that the EU has lost the case with the WTO over its existing GSP special preferences for countries which are engaged in the struggle against narcotics. The current special preferences proposal seeks to provide a similar level of

preferences but in a fashion which is more compliant with the WTO, but it is by no means certain that it will succeed a challenge because it excludes *a priori* a certain number of countries which, however good their social, labour and environmental policies, can never benefit from special preferences. The second problem is that of course it does nothing for the protocol products; further elaboration of the GSP would be required to do that—and the third problem is that the Rules of Origin are very poor in terms of cumulation which is allowing different countries in the group to add bits to the final product. A fourth problem to add to the three I have identified is the lack of any connection to aid, and as I think came out of the previous round of evidence, there is a huge need to provide positive support to ACP countries to improve their supply capacity and to improve the poverty impact of any trade preferences.

Mr Griffith: To follow up on that, as well as within the GSP there are other possible alternatives, and the most obvious secondary one would be for there to be a revision of the WTO rules on regional trade agreements, what is called Article XXIV, to incorporate Special and Differential Treatment (S&DT). At the moment there is no S and DT within Article XXIV and that is something of an anomaly if you look at the rest of the WTO where S and DT runs throughout; that could be revised. The ACP has tabled a proposal to revise Article XXIV which the EU has not supported, so that is an area where we think the UK Government could put pressure on the Commission. I would also like to flag up our perspective on the Government efforts so far with alternatives. In 1998 the UK Government was very good in pushing the Commission to give a commitment to alternatives within the Cotonou Agreement, and the UK Government also gave a pledge to this Committee—which is partly why we are here today—that they would provide strong alternatives. In the past year or so we have been encouraging the Government to actually demonstrate what alternatives would look like and also to put concrete plans in place. A few months ago our efforts were rewarded with a one and a half pager which we were concerned was slightly inadequate, given the Government’s pledge. I have been reading through the submission that the Government recently put to this evidence session on what work they plan on alternatives, which we welcome, it is a step forward, but I would like to flag up where we think it rolls back from what they committed to the IDC in 1998, and I would just like to highlight why we think it rolls back. This is under paragraph 44 of the Government’s submission¹³. The current IDC submission only promises research which would be shared with others to help analysis, and it goes on to say that this could possibly lead to a more in depth examination of alternatives, but there is no commitment made within the Government’s current submission that this will happen. There is also no explicit commitment to provide an alternative and any further work on

¹¹ Article 37.7

¹² Doha Development Agenda

¹³ Ev 37

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alternatives would be dependent on an ACP country “opting out”, which we interpret as saying that an alternative would only be presented after an ACP country had explicitly rejected an EPA, so it would be quite late in the day and it would require an ACP country to really go out on a limb, whereas in 1998 the Government said that alternatives “are to be made available” and it said that this would happen before the finalisation of an EPA. So we would say the Government still has much more work to do to make sure that alternatives are presented as a choice alongside a final EPA, and it needs to get moving on this quite quickly because the expiry date is 2006.

Chairman: John, I think you have a question for Jane.

Q43 Mr Bercow: Yes, my question is to Jane Nalunga. If Economic Partnership Agreements were to proceed as currently envisaged by the EU, what in your judgment would be the impact of such an agreement on the development of Uganda?

Ms Nalunga: The EPAs are basically about the liberalisation of ACP economies in more areas than agriculture and market access, and as we have been discussing here they go far beyond into “new issues”, into labour standards and so on. When you look at a country like Uganda which has undergone a Structural Adjustment Programme (SAP) under the World Bank, at the moment you find that a number of the industries have collapsed, for example the textile industry and cotton growing because of liberalisation, and further liberalisation I believe will lead to more de-industrialisation because our industries cannot compete with the subsidised goods from the EU. A number of impact assessments have been carried out in the region; Uganda carried out one, but it was a small study, which was funded by the EU, and the study really brings it out that in Uganda, if the EPAs are signed the way they are it would lead to de-industrialisation, the agriculture will collapse, there will be massive unemployment and also the reduction in livelihoods. So it is a clearly stated outcome from the assessment study, not just for Uganda, but for Mauritius, Kenya, and all the ESA (Eastern and Southern African) countries. There is an argument that EPAs will be good for consumers because of cheap things which will come in, but I think consumption has to be sustainable because at the end of the day where are you going to get the money to buy those cheap consumer goods? Today, in Uganda, foreign exchange is got from immigrant workers from outside because there are no industries, and this is going to continue. Maybe another issue which is also important in consideration of the effect of EPAs on Uganda is regional integration. The East African Countries will sign the customs protocol in January 2005 but in the EPA negotiations Uganda and Kenya are in the ESA group while Tanzania is in SADC, and we have been asking what is going to happen, will we sign the protocol and, if we sign it, how are we going to sign the EPAs? SADC also has problems, because SADC is minus South Africa, minus the SACU countries. In SADC it is Tanzania, Mozambique and Angola

who are supposed to negotiate the EPAs and all these are LDCs. So there is a problem when it comes to regional integration. Another problem also is that of the negotiating capacity in the ACP countries in terms of human resources. Today in our Ministry of Trade there is one person who is working on the EPAs and he shuttles between Brussels, between COMESA and all the various meetings at home. There is also a problem with the financial resources; the EU is funding almost 100% of the negotiations—the tickets, the studies and so on. It is good that we are getting funding but it is sort of a double-edged sword in a way; you cannot negotiate objectively, you cannot say no, and also there is no ownership of the process. Most ACP countries are also not ready. There is supposed to be a National Development Trade Forum in each country to look at the national position for the EPAs. To date we have had in Uganda maybe just two meetings in that forum, we have not yet come up with any position; the 16 ESA countries have their Regional Negotiating Forum which is supposed to come up with a regional position to present to the EU, but to date there is no position that has been tabled in that group. There is no position on any of the issues in that negotiating forum.

Q44 Mr Bercow: It certainly seems clear, Jane, from your response that you have a welter of objections and of course the argument for EPAs under the Regional Trade Agreements tend to favour the stronger negotiating party. Can I just extrapolate a bit from what you have said and just try to establish a more precise position. I understand what you are saying about negotiating issues, the funding and all the rest of it; however, in the event—I know it is not yet on the table—that the proposal were that you grant market access not to subsidised products but to unsubsidised products, would you then be content, would your other objections evaporate, or would you still be against the whole idea?

Ms Nalunga: If what? Could you repeat it?

Q45 Mr Bercow: If the proposal were that Uganda were obliged as part of that EPA to open its markets to European agricultural products, not to subsidised or dumped produce but to unsubsidised produce, would you then be content with such an arrangement?

Ms Nalunga: I do not think Uganda can compete whether products are subsidised or not because even if they are not subsidised, when you look at the cost of production, you do not have the production capacity constraints that we have, our production capacity is very low, we do not have the infrastructure—we have so many internal problems that even if your products are not subsidised and they come on our market our products will not compete. Let me give you an example of some of the problems in West Africa where there is the issue of the chicken parts. I understand here they say that chicken is not subsidised directly, but because agriculture is subsidised the feeds are cheaper. Even if the chicken parts are not subsidised, the chicken

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industry in West Africa cannot compete. So even if they are not subsidised I doubt whether our economies, as they are now, can compete.

Mr Bercow: I am very grateful for that, that is a very clear answer.

Chairman: Does anybody want to say anything about new issues that has not already been said? No. Then let us go onto Everything But Arms. John.

Q46 John Barrett: Do you have any idea as to how the Rules of Origin could be altered to increase access to the EBA agreements?

Dr Stevens: Thank you very much. I am glad the Rules of Origin came up in the previous evidence, and I strongly support what was said then. The problem with the Rules of Origin is that they reflect a pattern of global production which applied 40 years ago and they have not changed. In those days it was quite normal for a large part of any product to be made in one single country; now the norm is global production and both within the GSP, and also within the Cotonou Agreement, the Rules of Origin have done a great deal to prevent countries taking advantage of the preferences on offer because they would require the countries to do something which is commercially unviable. The great merit of the US example that was quoted is that for the first time, and in relation to only one product, clothing, they have allowed the lesser developed countries of Africa to do what is effectively known in the jargon as “simple assembly” of imported goods. Both the GSP and the Cotonou Agreement state that simple assembly can never give a country originating status, and that needs to be changed—not just for clothing but for the whole range of manufactured goods so that we could see the possibility of countries exporting footwear, leather goods, processed agricultural products. It would require a very substantial change in the Rules of Origin which, at the moment, are very complicated, but they require in broad terms 30, 40 or 50% value to be added in a country. Industry studies of electronics and video components in South-East Asia suggest that a realistic target is 5, 6 or 7%, so we are talking not about a minor modification but a root and branch change to bring the Rules of Origin up to date and relevant to the industry sector concerned.

Q47 John Barrett: Would you agree with the suggestion by ODI that the EU “bind” or secure the EBA access in the WTO?

Dr Stevens: I think it would be a very good idea, I think it would be a good idea from a whole range of perspectives. The idea was floated at one stage by Renato Ruggiero when he was head of the WTO and it has never been acted upon. It would certainly give a guarantee of continued availability to EBA which is absent at the moment—I think I agree with the previous evidence that it is unlikely the EU would withdraw it, but this would give a guarantee that they could not. It would also be good in the WTO because it would give more concrete manifestation to special and differential treatment, that you can bind different levels of tariff for different groups of

countries and it would lead directly on to the sort of change in the WTO that Matthew was talking about in terms of getting an alternative to EPAs. If the WTO accepts that you can have different tariffs bound in the WTO without requiring countries to go through the hoops of Article XXIV, then that would be a highly desirable way to go.

Mr Griffith: To follow up on that and echoing why improving EBA is so important, this whole question of an alternative came out in our submission¹⁴ and it also came out in the ODI submission¹⁵ that, at present, LDCs have very little reason to sign up to an EBA. The Commission is asking them to reciprocate at the same level to market access, yet they are not getting any commensurate benefits in return. We do not think that is a very good idea, so it is very important that an alternative is available for them and that for an EPA to be a suitable alternative these sorts of measures have to be put in place, otherwise LDCs will have nowhere to jump. The concern that we have is that at present the Government is not really looking at the problems created by EPAs in terms of regional integration. The difference in incentives for LDC and non-LDC groups within the ACP group is very big and we cannot see any clear reason why LDCs would want to join an EPA. This is a major problem. For example, in COMESA 13 of the 16 are LDCs; if 13 of them say we do not want to join a regional grouping you will have three fairly random, non-LDC groups who would have to join up, but the Government’s submission did not admit that this was a problem, it did not tell us anything about the solutions to this problem and how to get round it, and we have not got any convincing solutions or attempts to address this problem from either the Government or the Commission, which we think is a fairly fundamental one.

Mr Gidney: Can I just add a line about urgency on this? The Government persists in stating that EPAs are at a preliminary stage—indeed, that was contained also in the Government’s evidence—but we think differently. The Eastern and Southern Africa EPA will be agreed in outline form by next year and substantial provisions on market access will be agreed by next March. So the fact that the Government is only at this stage beginning to think about what might constitute support to the regional integration process, and what are the potential alternatives, we feel is too little too late.

Chairman: Let us just have a quick tour de table. John.

Q48 Mr Battle: I think the pressure in the immediate term is going to be on reform of the protocol for sugar. What would you recommend as the best policy to help ACP states, particularly the Caribbean at the present time, if those changes go ahead, which we all want, but could damage the Millennium Development Goals going forward?

¹⁴ Ev 39

¹⁵ Ev 55

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Mr Griffith: Unless Chris wants to say something on this would it be possible to give a written reply¹⁶ because we have had limited numbers for sugar expertise within our group and we cannot really comment to a level that would be useful.

Mr Battle: That is very welcome, thank you.

Q49 Chairman: As this is the only session we are doing on this, Dianna, is there anything that you would like to say, not in reply, but is there any comment you would like to make on the comments that have just been made?

Ms Melrose: Yes, if I might. It is a very interesting idea there on the WTO challenge taking a long time, we had not thought of that one. I just wanted to clarify in relation to what Matt in particular said, that there is no way in which the Government is rowing back on its commitment to look at viable alternatives. The point is that it was the ACP themselves that asked for a delay until 2006 to look at the alternatives and, basically, we do not see that it makes sense for the Government to come up with a blueprint because we do not know—without looking at the detail—what is best for development, hence the emphasis on research is precisely because we need to get it right. That is the critical point and we also think that our primary target should be to inform the ACP, and obviously we would use the same evidence to influence the Commission as hard as we can. I certainly want to say that there is no sense of complacency here. Our Ministers are very exercised about the issue.

Q50 Chairman: Can I just make an overall comment, having heard the evidence this afternoon? All of us—the development community, the NGOs, the Parliamentarians, Ministers, the media and others—have spent huge amounts of time talking about WTO and this Committee has done two very substantial reports on WTO¹⁷ and there have been acres of media coverage. Cotonou has got practically no coverage at all, absolutely nothing, yet we heard Jane this afternoon saying look, if these proposals go through as they are, there will be a devastating outcome for agriculture. I have a concern that everyone is focused on the WTO but there are some potentially serious negotiations going on in Cotonou in which we have not sufficiently engaged—and that may be our fault. Firstly, I think, as this Committee, we should create an early opportunity in 2005 to try and seek a meeting with

Commissioner Mandelson to start to engage on these issues. Those of us who were at Cancún and saw how the Commission operated under the previous Commissioner know that these are essentially issues of community competence and it is therefore quite important to do that, but I also want to publicly say that I think there is an issue in which the NGOs collectively—the usual suspects—can assist. I noticed just the other day on Making Poverty History, postcards on trade policy, fair trade and so on, and maybe we ought to say to Oxfam and all those who are very much engaged in WTO that they ought to be thinking about doing some immediate briefing to us as Members of Parliament and also to MEPs on Cotonou and the usual groups that lobby MPs and MEPs on Cotonou, because I do not think that sufficient people are starting to get their minds around this. One senses that there are two things, that whilst in terms of the language of these—there is no criticism here of DFID—there has been nothing written in stone, actually as Chris has said quite a lot has been written in stone quite quickly, so to a certain extent speed is of the essence, and I think this is a topic on which we all need to focus rather more attention. Michael.

Mr Gidney: Might I be permitted to make a summing-up statement from our side?

Chairman: Yes.

Mr Gidney: We would welcome your suggestions and agree that it would be extremely helpful if the Committee were able to meet with Commissioner Mandelson on EPAs. Equally, we would welcome more engagement between the NGOs and the various Parliamentary groupings who are able to exercise such valuable scrutiny over this process. We are starting to work now with the Government and we look forward to this being a constructive dialogue. This is quite new, I have to say that as recently as March/April of this year we were told by officials in both DFID and DTI that the Government was not prepared to expend “political capital” on EPAs. That has now changed and that is welcome, but as it is a new development the jury is out on the outcome. It is our view that the ACP are very clear that they cannot cope with the level and speed of negotiations on EPAs and they have serious concerns, expressed in their negotiating mandate and their press statements after their meetings, about some aspects of EPAs, particularly to do with the pace and scope of reciprocity and the inclusion of ‘new issues’ when they had fought successfully against them in the WTO. If we really wanted to show good faith and a strong commitment to development, then the British Government is well placed to lobby for the removal of “new issues” from the Commission’s mandate and, again, the removal of the excessive focus on fast liberalisation which has characterised the Commission’s activities so far.

Chairman: What I would say on that, Michael, is that some of the policy dance that we have had on this, the policy dialogue, is that usually the NGOs or the staff from the NGOs draw up an agenda of objectives which you tend to agree amongst

¹⁶ Ev 49–50

¹⁷ International Development Committee, First Report of Session 2003–04, *Trade and Development at the WTO: Learning the lessons of Cancún to revive a genuine development round*, HC 92-I. Available at <http://www.publications.parliament.uk/pa/cm200304/cmselect/cmintdev/92/92.pdf>. International Development Committee, Seventh Report of Session 2002–03, *Trade and Development at the WTO: Issues for Cancún*, HC 400-I. Available at <http://www.publications.parliament.uk/pa/cm200203/cmselect/cmintdev/400/400.pdf>

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yourselves, and which you manage to communicate to Parliamentarians. I think we would welcome that because there is a lot of confusion here about what is wood, what is forest, what is trees and who is on whose side on what and so on. If it were possible to give some thought to that between now and the end of the year, I think that would be very helpful. Government departments here—the Department of Trade and DFID—are themselves having to cope with a lot in terms of WTO and Cotonou, and of course a lot of these issues are cross-departmental. If you take an issue like sugar, one can imagine that what DEFRA is saying on sugar is different—they are concerned about ensuring that the interests of sugar beet farmers in East Anglia are heard, so there are various tensions here that we have to recognise on many of these commodities. Having heard all the evidence this afternoon, both from officials and from you, I am concerned that this is something that all of us, the whole development community and the media, are not paying sufficient attention to.

John Barrett: Can I add one point and it is something that I can perhaps fire at both the NGOs and the officials, and that is one of the pressing issues for getting it right and up to speed is that particularly with the Caribbean states there is the imperative that that trade goes on outwith the negotiations, and that now that the American Government has been successful in Columbia in restricting the narcotics trade there, there is pressure for that to move on to the Caribbean. We have seen what happened, for example, in Afghanistan and it is something the DTI, DFID and the NGOs will be aware of, and we need to move on because there are alternative products which are not necessarily covered by these agreements that can actually start to grow in the fields. It is another reason for keeping the pressure up.

Chairman: Okay. We could carry on all night, but I think we are all of one mind on this so let us move forward. Thank you very much for coming to give us your evidence.

Monday 7 February 2005

Members present:

Tony Baldry, in the Chair

Mr John Battle
Hugh Bayley
Mr John Bercow

Mr Tony Colman
Mr Quentin Davies
Tony Worthington

Witnesses: **Rt Hon Peter Mandelson**, Commissioner for Trade, **Mr Roger Liddle**, Member of Cabinet, and **Mr Claude Maerten**, Head of Unit, Directorate General Trade, the European Commission, examined.

Q51 Chairman: Commissioner, thank you very much for agreeing to come and give evidence before the Committee this afternoon. That is very much appreciated. As this Committee knows from the work that we did on Cancún—and I mean this seriously—you are an incredibly powerful person, because, as we know, you single-handedly negotiate on trade imports for the whole of the European Union. Our fundamental concerns about all of this are that, at the same time that Least Developed Countries (LDCs) are having to negotiate on the WTO, they are also having to negotiate on Economic Partnership Agreements (EPAs) and on Doha Development Round agenda, which was a clear statement evinced by international community that they would seek to help the development of the Least Developed Countries in the WTO. What are you able to say about the help that you are going to give to the Least Developed Countries under the reforms to the Cotonou Agreement, and its Economic Partnership Agreements? The real concern is that the bottom line seems to be that, if Least Developed Countries want to have any access to European Union markets, they are going to have to open up their markets in a way which could well undermine their trade, their capacity. How are you going to ensure that these agreements reflect the weakness of many Least Developed Countries and ensure that this also enhances their development and does not undermine their development?

Mr Mandelson: Principally, by not making unfair and unreasonable demands which they are unable to meet. These are not classical, conventional, hard-nosed trade agreements that we are pursuing, of the kind that you would attempt to negotiate between developed countries. In that sense, the very term “trade agreement” is a misnomer. If we wanted simply to rely on classical instruments, we would rely on our Generalised System of Preferences, which offers pure market access arrangements; it is a unilateral instrument—we decide what is in it and others have to take it. The EPAs are entirely opposite; they are properly negotiated, nothing is imposed, nothing is unilaterally declared and then passed down like a tablet of stone. Secondly, and I think more importantly, they are genuine development instruments, in that they are designed not simply to arrange market access. They are designed to enable ACP countries to acquire, to expand the capacity that they have in terms of their governance, their infrastructure, their productive supply side, to enable them to participate in the trade

opportunities that are being created. Lastly, they will, once they are negotiated, once they are agreed—and that is some time off. They are described by some as if they already exist. A member of the Government recently described them—I cannot remember the minister’s name, unfortunately—as some sort of squalid waste, as if they already exist. The BBC referred to them today—incidentally, not as Economic Partnership Agreements but as European partnership agreements—and said that Kofi Annan had already condemned their impact on developing countries. The amount of misinformation and misrepresentation, I am afraid, is rather extensive, but the key point is that they will be negotiated not unilaterally but bilaterally. Any market opening will be entirely asymmetrical and thirdly, any market opening will be progressively introduced over a considerable amount of time, as befits the needs and the rate and pattern of development of the ACP countries themselves in their particular regions. So you will see, Chairman, how different they are from the sort of trade agreements that people might instinctively rebel against in the case of countries which are amongst the weakest and most vulnerable of developing countries with whom the EU deals.

Q52 Mr Bercow: In your recent speech to the ACP Civil Society Dialogue Group¹ you stated that there is no fixed timetable for liberalisation—a very important statement—and furthermore, that there will be what you call a high level of asymmetry between the European Union and the ACP. Can you tell us at the outset how that approach can be reconciled with what I think is the common interpretation of Article XXIV, which assumes both a ten-year transition period and, I think, the inclusion of 90 % of trade? In other words, who will decide the timetable, where does the buck stop, and indeed, who, for that matter, determines the level of asymmetry?

Mr Mandelson: That is a matter for negotiation. It is not something decided by us and unilaterally passed down for others to take or leave. It is a matter of negotiation. Each of these partnership agreements has to be properly analysed, prepared, negotiated, between the EU and ACP countries, and all the

¹ *Economic Partnership Agreements: putting a rigorous priority on development.* Speech by Peter Mandelson to the Civil Society Dialogue Group, Brussels, 20 January 2005. Copy placed in the Library.

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issues that you have identified, quite rightly, are amongst those which are central to that negotiation. You rightly highlight a broader point about the WTO. The specific point that you are picking up concerns Article XXIV, concerning regional trade agreements, and the ten-year time limit which that Article suggests or imposes as the period for transition. What you are saying to me is supposing our transition arrangements want to stretch longer, and that is something that concerns me and, as I said when I was being questioned in the European Parliament last week, one of the rule changes that I want to promote in the WTO is a more flexible interpretation and application of Article XXIV in order to accommodate the sort of progressive, step-by-step market opening that is envisaged in these agreements, but the broader point, if I may, that your question illustrates is this: that the WTO in my view, is seeking to support and underpin a rules-based international trading system, something which I certainly support, which I believe is in the interests of developing countries, because I think that rules, as long as they are drawn up properly, interpreted well and applied flexibly, tend to help the weak against the strong. If you did not have rules, you would have the law of the jungle, in which circumstances the strong would prevail almost always against the weak. So I am a great supporter of rules in the international trade system but those rules have to become more sophisticated. They have to reflect, for example, our desire within the Doha development agenda to develop a concept of special and differential treatment between developing countries. There is not one stock, standard category of developing countries. They have different states of development, different priorities, different interests, different needs, a point I often make, sometimes in an unwelcome way, to some more advanced developing countries for whom I do not think many of the benefits and privileges of what we are negotiating in the Doha Round should be extended to in the way that they should be concentrated and targeted at the Least Developed Countries. At the moment, the WTO, as I say, does not have that flexibility and does not have that sophistication that we need to accommodate that concept of special and differential treatment, even though that treatment is central to the fulfilment of the development goals of the Doha Round. So your narrow point illustrates a wider point, where we need to bring change to the WTO, and that is one of the areas which I am exploring and which I will seek to develop in the context of the Doha Round.

Q53 Mr Bercow: I think it is quite important to have a sense of what level of political pressure, or indeed, executive initiative on your part is needed, simply because a lot of people's fate hangs in the balance on this very important question. Interestingly, Commissioner, you said in relation to the Article—and I noted it carefully—what the Article “suggests or imposes”, and that in a sense is the nub of the matter. Can I take it that, if it is merely a suggestion contained within the Article, as you have interpreted it, you will, frankly, think better of that rather

unwise suggestion but that if it is an imposition that is involved, then frankly, you will seek formally a revision of the Article?

Mr Mandelson: Yes.

Q54 Mr Bercow: You will seek a revision of the Article if necessary. That is very helpful. Finally, if I may, you talked about the asymmetry of the arrangement. I think it is fairly common ground amongst people concerned with, for want of a better term, what one could call trade injustice that the objective in pursuing a Doha Development Round and successful EPAs must be to maximise access for poor countries' products to EU markets and, so far as possible, or at least for an appreciable period, to minimise access for unfairly subsidised European produce into developing countries' markets because of all the damage that does to local farmers and all the rest of it. Can you therefore tell me, if we take as a broad yardstick this figure of 90 % of all trade, what are the exceptions to the principle of ACP access to EU markets? Are those exceptions based on genuine health and safety concerns or do you share the cynicism of some of us, probably greying prematurely, ageing before our time, who think that really, it is just a protectionist racket to stop cheaper, efficiently produced and potentially popular products getting into our markets because our vested interests will shout rather loudly?

Mr Mandelson: I think it is important that proper protection of European citizens does not slip into protectionism against developing country products, and I of course have no evidence whatsoever that that line has been crossed, nor do I assume that it has. However, I do think that there are concerns in this area which we have to take seriously. We are talking, Chairman, about the sanitary and phytosanitary standards that the European Union operates in order to maintain the health and the wellbeing of all of us in Europe. I know some argue that these standards, in their stringency and their desire to minimise any amount of risk to the European citizen, even down to the possible threat to the wellbeing of one in a billion citizens, perhaps go a bit far and that perhaps they are having unforeseen side effects which are acting to the detriment of developing country producers, and that if we were to look again at these standards and these regulations, they could perhaps operate in a fairer and more just way, without any undue or unreasonable harm or risk being posed to the European citizen. I know some make that argument, and I have heard the argument, and I think it is a debate that the European Union should join. I hope you appreciate the care with which I have answered that question.

Q55 Mr Bercow: I have noted it, and I feel sure it will be recorded for posterity.

Mr Mandelson: Can I just say as a postscript that, when I made my last public utterance on this subject, I attracted considerable criticism from those who thought that my aim was to put the health of Europe's citizens in grave danger and jeopardy and a metaphoric tonne of bricks was emptied over my

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head. I am sure that will not be the case now, given the care with which I have answered you, but you do need to be aware—we all need to be aware—that this is a very sensitive subject indeed, and there are strong European interests who think that, beyond all else, the health and wellbeing of Europe's citizens should come first. We have to bear that in mind as well.

Mr Bercow: Indeed. Thank you.

Q56 Mr Battle: Commissioner, could I add a word of welcome to the Committee? You are the first Commissioner (of the new Commission) to give evidence, and a special welcome as a Trade Commissioner because, if we focus on aid, and we need more aid, and we focus on debt and cancelling debt, I suspect that fair trade will be the key in the 21st century to tackling poverty; it will be the key agenda. I just want to press you a bit further, because there have been efforts in the past to liberalise and open up the markets *vis-à-vis* the north and the south. The structural adjustment policies, for example, that affected Ghana. The Committee visited Ghana, and we visited a tomato farm where they had just managed to get a water system to irrigate their tomatoes, and as we drove away, we passed a closed down tomato processing factory. Why had that factory been closed down? The answer was that Italian tomato paste was flooding the Ghanaian market as a result of the structural adjustment liberalisation policies. So I am very nervous to ensure that we have fair trade: that the opening up of markets is not one way and kills off efforts locally. I would just like to ask you, how would the Commission ensure that the opening up of trade under the EPAs, the Economic Partnership Agreements, does not lead to EU products actually flooding ACP markets and undermining their agricultural sectors?

Mr Mandelson: I do not think there is any possibility of this happening. I am now becoming increasingly aware of the tomato situation in Ghana because I was questioned about it on "Newsnight" on Friday, much to my amazement. I was questioned about it again on another BBC politics programme on Sunday, by which time my answer had still not fully recovered from the shock of being asked it in the first place, and this is the third time I have been asked to address this issue. I can assure you that the moment I get back to Brussels tomorrow I shall be making inquiries about the circumstances in which Italian tomato paste came to be dumped, as you put it, on Ghanaian markets. Unfortunately, over the weekend I have been unable to acquaint myself with the details, but I will do when I get to Brussels. I think the serious point as well, if I may, is to understand that market access in the partnership agreements that we are talking about comes well towards the end of this process of economic and trade capacity building, after regional integration has kick-started growth, because, of course, as you know, one of the main features of the agreements that we are seeking to create with our ACP partners is a regionalisation of markets so as to create trading opportunities in the first place for protected regional

markets which it would be much easier to gain access to and where regional comparative advantage will be easier to develop, and where regional markets will be easier to grow for the benefit of the ACP countries themselves in the first instance, long before any consideration comes on to the horizon of access to those markets by European producers, and after, it is important to say, Europe has invested aid and support in these LDCs' capacity to trade. That is the important point, Chairman, and transitional periods need to be—just going back to Mr Bercow's original question—long enough for that investment, for that use and application of that aid, for the use of that trade-related assistance to kick in, for that regional integration that we are seeking to occur, for regional markets to grow, for comparative advantage to be exploited, long before we get to the question of market access for European producers, and that flexible timetable depends on each region's progress. There is no blueprint; there is no one model that is devised centrally and rolled out to every ACP region. We are really about strengthening the ability of ACP countries to tap into market opening and that means that extending their capacity has to come first and that is again, what makes these partnership agreements so different from any other concept that we have ever tried to develop.

Q57 Mr Battle: Just to be clear—and I welcome that answer—are you saying then that ACPs will themselves be able to decide on the extent and the timetable for liberalisation, for example?

Mr Mandelson: What is agreed must be acceptable to the ACP countries themselves.

Q58 Mr Battle: So if we went then through to the process, you very helpfully suggested you would build in a review to see how it was going after the process, the agreements are signed up, as it were. In that review, could it possibly be that, if they are not going well, the process could be held up, and will the review just be linked to disbursement of support, as you suggested, or could it also be about the scope, the pace and the impact of trade liberalisation? In other words, will you keep the whole conversation as open after the signed agreement in the review as you are suggesting you may do now?

Mr Mandelson: The approach is comprehensive. The package we are trying to devise is comprehensive, and therefore the conversation that we keep having has to be comprehensive. What we are therefore monitoring and keeping under review is the effectiveness of what we are doing, the effectiveness of the agreement that we are seeking to operate. If it is not effective, by which I mean the development assistance, the aid, the capacity building, the regional integration, the market growth is not taking place in the way that was originally envisaged, and therefore the market opening has to be correspondingly slowed down, that is something that we will look at and keep under review in the round but, as you also know, because I have been concerned that the EU's development assistance should properly, genuinely, be rolled out

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in the way that was originally envisaged so that the two things do not get out of synch, I have decided that a new monitoring mechanism will be introduced, and I have agreed this with my colleague, Commissioner Louis Michel, and that machinery is currently under design to make sure that we know that is happening, that we do not simply create a nice canvas, agree that it is all hunky-dory, press the button, retreat and do not bother to look again at how it is actually operating in practice. That is not going to be our approach.

Q59 Mr Battle: Can I finally suggest that one of the things that the ACP countries in negotiations now have been asking to have considered is what is called technically GATS mode 4, about the mobility of labour and the temporary movement of labour. I would just like to ask you what plans, if any, the Commission has to explore the possibility of including GATS mode 4 in the Economic Partnership Agreements. Are you open to that or have you really said, "Keep it out for now. We have got too much on our plate"?

Mr Mandelson: I am open to that, because it has a basis in the WTO, it has a basis in the negotiations, the talks that are currently under way in the Doha context, so I see no inconsistency or no incompatibility between our Doha agenda approach and our EPA approach in respect of mode 4.

Q60 Mr Davies: Commissioner, the ACP countries were originally promised by the Commission that if they did not want to sign up to an Economic Partnership Agreement, they could have an alternative, which would provide no worse market access for them to the EU market. Does that promise still stand?

Mr Mandelson: It does still stand, but I would just make two observations. One, the ACP countries do want to negotiate the Economic Partnership Agreements; none has decided that they do not. Each has agreed with us that this is the path they want to go along. That is the model they have opted for because, secondly, they realise and acknowledge that these are genuine developmental and trade packages, rather than simple market access devices which the alternative presents. What we are taking on is more ambitious, it is more sophisticated, it has more content. It requires, incidentally, more integration of what we are doing to the WTO's own rules, which, as I have already explained, is a challenge in itself, but I think that they and we are agreed that we want to maintain this level of ambition for what we are trying to do, rather than, as I say, opt at a premature stage, before we have even pursued the negotiations sensibly and rigorously, for something which is second best.

Q61 Mr Davies: I am not actually contesting what you are saying. I have actually been very much struck by the enthusiasm which has been shown for these EPAs, despite the out-pouring of indignation on the part of many NGOs, who felt that they were doing an advocacy job for LDCs, saying that this

was a very bad idea. In actual practice, as you say, the governments concerned seem to have shown great interest in it. Nevertheless, you have used the comparative; you say you want something that is better or more sophisticated and so forth. That implies that there is something to compare the EPA with. What is unclear to me, and I suspect is unclear to the ACP governments concerned, is exactly what that alternative would consist of. For the poorest countries, the LDCs, it would presumably be the Everything But Arms deal, which is not actually quite so advantageous on rules of third party origin and so forth, but what about the non-LDC ACPs? What is the alternative that they might be offered?

Mr Mandelson: The alternative is the GSP, the Generalised System of Preferences but, like Everything But Arms, and if I can just quickly define, Everything But Arms says to LDCs, Least Developed Countries, that they can export anything they like tariff-free, quota-free to European markets but arms, and it is as open, general and all-encompassing as that, and that is the approach that we will have completely phased in within five years² but of which, of course, in the context of Doha, we want the United States, Japan and Canada to adopt as well, as a unique 21st century contribution to meeting the needs of LDCs. But the alternative is, as I say, second best. It is either an EBA arrangement, which is simply a market access arrangement, with no developmental content or dimension, or it is a Generalised System of Preferences, which, likewise, is a market access, a unilateral—unilateral by Europe, I might say—system of preferences to gain market access, again, without any developmental dimension or content. That is why in my view, ACP countries opted for the more ambitious and more sophisticated model because of its developmental nature.

Q62 Mr Davies: Yes, indeed. As you set out Everything But Arms (EBA), it sounds a very attractive alternative. In practice, it is very striking that all these countries prefer to go the Economic Partnership Agreement route. If you look at the Everything But Arms, it does not have quite the same features. It is not as permanent, it is not contractual and of course, it does not have as favourable terms in terms of third party, third country content and so forth. But I come back to my point: are these countries really able to choose between two alternatives, both of which are quantified and both of which they fully understand so that they can make a fair comparison? Have you spelt out what the nature would be of a Generalised System of Preferences, a GSP alternative, supposing that a country—it may be unlikely, and I am not contesting that—wanted to know what the

² *Note from the witness:* The Everything But Arms (EBA) agreement entered into force in 2001 providing full duty- and quota-free access for all imports from Least Developed Countries with the exception of three products where access is being gradually introduced over a transition period with full access to be granted in 2006 (bananas) and 2009 (sugar and rice).

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alternative was before they signed up to or committed themselves to an Economic Partnership Agreement?

Mr Mandelson: They have that alternative now.

Q63 Mr Davies: Have you spelled it out for them?

Mr Mandelson: Yes. They have that now. They take advantage of the Generalised System of Preferences now.

Q64 Mr Davies: Have you given them the detail? For example, what would the rules be on third country content in the case of a GSP?

Mr Mandelson: That leads us on to the system known as Rules of Origin. If I can just make two points, one about the GSP and the other about Rules of Origin, I am seeking to revise and simplify both.

Q65 Mr Davies: So you do not have a definite, concrete offer to make? The countries concerned do not know what the details would be of a GSP deal that they might have as an alternative.

Mr Mandelson: It exists already. It is of long standing. It is just that I am trying to improve it. The revised and simplified GSP, it was intended, should be introduced in July of this year. In the wake of the tsunami disaster, because of the benefits from the GSP of the tsunami-affected countries, I have proposed to the European Council and to the European Parliament that we should accelerate the revision of the Generalised System of Preferences, bring in the new simplified and revised version in April rather than July so as to advance the benefits from the system that will be enjoyed by Sri Lanka, Indonesia, and Thailand notably. Secondly, in respect of the Rules of Origin, what I am doing there, again partly, not entirely in the light of the tsunami disaster, is to encourage my colleagues in the Commission to review the operation of the Rules of Origin more speedily than they otherwise intended to do, using, in my view, the urgency created by the tsunami, so that we can get more benefits out of the GSP so that we could get those preferences more activated, performing better, in the interests of the developing countries concerned. Revising the Rules of Origin, unfortunately, is not my direct responsibility. It belongs to my colleague Mr Kovács, with whom I am cooperating very closely to try and speed up the simplification of our Rules of Origin so as to benefit the very countries that you are concerned about.

Q66 Mr Davies: So we have established the fact, Commissioner, that at the present time the ACP countries are not in a position to make an informed choice. They do not have the details of the GSP alternative. What you are telling the Committee is that in a few months' time you hope, with good will, with the cooperation of your colleagues in the Commission and so forth, that there will be a new, revised form of detailed GSP offer and they will therefore be in a position at that time to make an informed definitive choice.

Mr Mandelson: Yes, but you are not comparing like with like, with respect. Believe me, the GSP, useful and advantageous as it is for developing countries, Rules of Origin, and necessary as it is to revise those, all this is in no sense comparable to the sort of partnership agreements which are developmental tools rather than simply market access tools.

Q67 Mr Davies: I accept that entirely, Commissioner, but you will accept as well, I think, that any responsible individual negotiating on a fiduciary basis, whether on behalf of a business or a country, needs to know the details of all the alternatives that are on offer before he or she makes a decision. I think we have established this afternoon that the ACP countries do not at the present time find themselves in a position where they can make that informed decision because they do not know the details of all the alternatives. The alternatives are not entirely comparable, for the reasons you mention. They may well end up preferring the Economic Partnership Agreement—and I do not in any way wish to contest that that may be the best deal, certainly the fullest, most elaborate, most comprehensive deal, but nevertheless, they obviously need to have the full picture before they make a choice. It would not be sensible to push them to make a choice before they have those details.

Mr Mandelson: I do not accept that proposition, no, and the reason I do not is because they know only too well what the GSP is and what Everything But Arms is, and they know that they are simply market access arrangements.

Q68 Mr Davies: But they do not know the revised one.

Mr Mandelson: I can assure you that, however improved the GSP may become, and however simplified the Rules of Origin may become, they are simply market access, pure trade instruments. They bear no comparison at all to the developmental instruments that we are trying to create through Economic Partnership Agreements, which is why the ACP countries, having seen the alternative, have opted to negotiate the partnership agreements rather than rely simply on the GSP with its Rules of Origin component.

Q69 Mr Davies: Commissioner, you are like a car salesman who says "This particular car is far and away the best model. It has everything you may want in it," and the customer could actually afford another car that is about to come out or may come out in a few months' time, and you are telling the customer "You don't need to wait for this one. You can make a choice today." I do not think that is very realistic. I think that everything you say about the inherent advantages of the EPAs may be absolutely correct, but it does seem to me irresponsible to expect countries to make a definitive choice before they know the full range of the alternatives and the details of those alternatives. I hope that you will be

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in a position to show them those details, to offer them a full and informed choice of that kind within a fairly short timescale.

Mr Mandelson: It is a choice between a motorcar and a bicycle. They are opting for the motorcar, which is under construction. It is not we who are seeking to delay any comparison; it is the ACP countries themselves that have asked us to delay the promised review or examination of the Economic Partnership Agreements currently under negotiation because they want more progress to be made in their negotiation.

Q70 Hugh Bayley: The US equivalent, if I can call it that, of Everything But Arms, the Africa Growth and Opportunity Act (AGOA), has had greater take-up so far than the EBA because it is more flexible and more liberal on the Rules of Origin. Does the Commissioner agree with me that incorporating into Everything But Arms the same flexibility for developing countries to source their raw materials from the most competitive market as exists under AGOA would have a benefit, an immediate trade benefit, for Least Developed Countries, who, after all, we are committed to helping in the Doha Round, but would also foster the principle that free trade is in everybody's interests, that they, a least developed country, would be able to source their raw materials, maybe the cloth to make into clothes, from the cheapest market, and that that in itself is a compelling argument that ought to make the Commission willing to have Rules of Origin that are at least as liberal as those under the American Africa Growth and Opportunity Act.

Mr Mandelson: I do not want to portray the American alternative, the AGOA, as an inferior model to anything that we have created or are creating between ourselves and ACP countries, but I think one needs to bear in mind some of the painful lessons and painful experience of some African countries which have benefited from some simple textile transformation rules under the American market scheme. As a consequence of their participation in this scheme, they got some fairly footloose investment to process imported material at the expense of investment in vertically integrated regional cotton processing, and then along comes the end of the Multi-Fibre Agreement and the elimination of quotas, as happened at the beginning of this year, as well as, no doubt, other factors, and these countries have seen a fast withdrawal of that footloose investment that they thought was a great panacea when they first signed up to the AGOA system. Lesotho, if I can just offer one illustration, has lost, I think, in the region of 12,000 jobs in January alone. So whilst I am not for one moment condemning the entire American scheme—far from it; perish the thought—I would simply suggest that all that glitters is not necessarily gold and that in this sort of territory, heaven knows it is complex, with very, very difficult rules, design, challenge, to make sure that it is those very countries who you want to help most who are genuinely benefiting rather than being piggy-backed on by others who are getting

their supply materials into these countries covered by these Rules of Origin in order to get preferential access to European markets, not for the benefit of the LDCs who we want to help most but in order to help the originators of the inputs, who, because of their state of development, would not qualify for that preferential access if left to their own devices. So it is a really complex area here, and I am finding that working with my colleagues to simplify Rules of Origin, it is a bit like a Russian doll. No sooner have you removed one that you find another problem or potential beneficiary you do not actually want to advantage sitting there inside the doll, and so it goes on. That is what we are trying to tackle. All I am saying is that I do not think the American system has yet found the perfect answer or solution.

Q71 Mr Bercow: First of all, Commissioner, I think we are all pretty clear and do not need to be persuaded of the limitations of the Everything But Arms agreement, because since it came in, Mozambique, Ethiopia and Malawi alone have sustained losses of about \$238 million because of restrictions to market access. I am sorry to push you again, but I was just a bit perturbed by the exchange that you had with my colleague, Mr Davies, because you made a really rather graphic point about the comparison between a motorcar and a bicycle, and it did seem to me to be fast becoming an example of a dog and a bone, and you were the latter and my colleague was the former.

Mr Mandelson: That is one of the nicest things that has ever been said about me really. It is one of the nicer descriptions that has been attached to me. It is nice to be back!

Q72 Mr Bercow: Forgive me. It did seem to me that you were making slightly heavy weather of your answers to Mr Davies when you were in general terms on very strong ground.

Mr Mandelson: I was trying to make a simple point.

Q73 Mr Bercow: You were trying to make a simple point but, unfortunately, it transmuted into something rather more difficult to understand, or certainly, at any rate, to accept. Presumably you agree that we need to start work on these fully fleshed out alternatives to the EPA and to make sure that they are in place.

Mr Mandelson: Yes, because market access alone is not enough to prevent the marginalisation of LDCs and to enable them to bring about the growth of their export capacity. Simple market access is not enough, and the bicycle that I was trying to describe is a limited market access bicycle, and these countries need more.

Q74 Mr Bercow: You are in the happy position of agreeing with the Secretary of State for International Development.

Mr Mandelson: That is a great relief.

Q75 Mr Colman: Singapore issues, trade facilitation, investment, competition, government procurement. Cancún largely failed because your predecessor,

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Commissioner Lamy, was pressing this. They were largely dropped by Commissioner Lamy last July in order to move the agenda forward. What we hear is that you are now insisting that they be brought into EPAs. Obviously, you can comment whether that is true or not and whether perhaps we can have a different way forward, which is in fact to allow them to be negotiated on the basis of a specific ACP region rather than, if you like, being imposed blanketly by yourself.

Mr Mandelson: I am not insisting. It has been agreed that they should come within the purview of the EPA negotiations, so I am not insisting, but what I want to see is that we return to these issues and try and find a way of incorporating in a more development-friendly way than arguably was the case at the time of Cancún, and that I accept. These issues—and we are talking, of course, about rules governing investment into developing countries, transparency of public procurement, trade facilitation and competition policy—I will tell you why I do not want to lose sight of them, and that is because I think that they are essential parts of successful economic governance. I want those countries to succeed, not fail. I want them to provide a framework, a climate of growing confidence and of predictability which will encourage private investors to invest in these countries rather than stay away. I have been struck by the number of developing country ministers—two, actually, to be precise; I am not going to exaggerate—from two different countries who have said to me in the last month or two that the reason why they wanted to see off the so-called Singapore issues in the context of Cancún is not because they were inherently wrong or onerous but because they just did not have the negotiating capacity to take them on, deal with them, along with the rest of the whole negotiating agenda which was confronting them in the Doha context. One said to me, “We desperately need better rules on public procurement. We desperately need better rules, and we need transparency. There is an awful lot of waste, an awful lot of inefficiency, and, frankly, corruption going on. It would help us to have these rules applied,” but the task for us is not to come in in some sort of aggressive way, lay down the law, saying, “These are the rules that operate in our countries. They are good enough for us and they will certainly be good enough for you.” That is not the right approach. Faced with that, the drawbridges will simply come up and people will not want to know, not least because they will think that the aim is not to help them, but to settle for terms which are entirely beneficial to foreign direct investors. That is not the aim. However, that impression might be created, the perception might exist, and so our job, I think, in the context of the EPAs, is to create a framework in which these issues can be addressed, as I say, in a development-friendly way, and that is our aim.

Q76 Mr Colman: Would you be willing to step back from requesting that the issues be included in EPAs but for them only to be there if in fact an ACP region requested them?

Mr Mandelson: Yes. They have to be agreed.

Q77 Mr Colman: No. I am saying something slightly more precise, which is that the EU would not introduce them into the discussions, but if the ACP region wished to do so, they would be able to do so.

Mr Mandelson: It has already been agreed that they should be introduced into the discussion. That is agreed, and yes, I will seek to promote these issues because I think they are in the interests of developing countries, but I am not going to do so aggressively; I am going to do so within a framework which is development-friendly, and I am not going to impose something which ACP countries either do not have the capacity to negotiate or do not have the ability at this time to take on, but I do think they are important, and I think that we do a great disservice to developing countries in suggesting that, just because something has the tag of private investment or foreign direct investment or rules pertaining to competition or public procurement in the way that we might seek to operate them in Europe means that they are *ipso facto* inherently inappropriate for or unacceptable to developing countries. I think that is a great disservice to developing countries.

Q78 Mr Colman: Perhaps I can press you for the last time. Clearly, there needs to be evidence demonstrating, if you like, that by bringing in the Singapore issues, it is of benefit to ACP countries. Have you in fact managed to get new evidence? Are you working on new evidence? You mentioned the two ministers concerned. I think there need to be on the table more examples of how this is to benefit the ACP countries before, if you like, Hong Kong can adopt or can feel that this is in fact an issue they would wish to take forward.

Mr Mandelson: It is ruled out as far as Hong Kong is concerned. I am not seeking to reintroduce these issues into the Doha Round. I am only seeking to examine, pursue them in a development-friendly way in the context of the EPAs, not the Doha Round.

Q79 Mr Colman: New evidence?

Mr Mandelson: Apart from trade facilitation, which I think was agreed originally and would remain part of the Doha Round, the other Singapore issues are excluded.

Q80 Mr Colman: Is there new evidence, if I could press you, to demonstrate that if these were included within an EPA, it would be of benefit?

Mr Mandelson: For me, the best evidence is the observation made to me by relevant ministers in the developing countries concerned. I think this is another area where, if I may suggest, the NGO agenda regarding EPAs does not entirely overlap with or correspond to the agenda being pursued by ACP countries themselves.

Q81 Hugh Bayley: I would like to go back to the car and bicycle, and I should declare an interest as a cyclist. I hope you would agree with me, Commissioner, that both cars and bicycles have advantages and disadvantages. Cars are fast and technologically advanced, but they are also

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expensive and they pollute the atmosphere, and bicycles are cheap and cheerful, maybe not as comfortable but more energy-efficient than cars, and in many fields in developing countries they are more appropriate technology. Least Developed Countries, when deciding whether to sign up to a EPA, will have to choose between that and the EBA, Everything But Arms, which of course gives them, as you described yourself, unlimited, tariff-free market access into the European Union, which is something which the Economic Partnership Agreement will not give. Therefore, I would like to ask whether the Commission has plans to facilitate . . .

Mr Mandelson: Sorry. ACP countries will be no worse off once the EPAs kick in, from Everything But Arms. That is very important. We are asking for EBA plus not EBA minus.

Q82 Hugh Bayley: I am pleased to hear that but does the Commissioner envisage special treatment therefore for Least Developed Countries within Economic Partnership Agreements to make sure that that is the case, and will it be an issue which the EU seeks to address within the WTO to guarantee that, for the Least Developed Countries who will benefit from the EBA, all the benefits of EBA will be maintained?

Mr Mandelson: This is a very important issue, a very important aspect—it goes back to the exchange I had with Mr Bercow—and that is to make sure that the WTO's rules and their application reflect that special differential treatment, that sophistication of our approach that we are seeking, through the partnership agreements, and I am increasingly aware of this. We are being increasingly vigilant about this, and it is something that I am discussing with my service at the moment. It would be really poor if we were to try to seek to negotiate something through the EPAs which was WTO plus only to find that the WTO framework of rules did not support the house we were building, as it were, and it is a discussion on this very point that I was having with all the Commonwealth High Commissioners this morning at a seminar organised at Marlborough House by the Commonwealth Secretary General, and they were raising precisely these points. But we are talking about something which is in addition to and on top of Everything But Arms, and I think, Chairman, it is worth recording that more than 97% of LDC exports to the EU have been admitted duty-free. I think that is quite an achievement for the European Union. The EU imported from LDCs in 2003 goods worth €12.5 billion, which is more than the entirety of the US, Canada and Japan imports from LDCs put together. So our record is pretty good, and is a very solid platform on which to grow. That is one of the reasons why we want to improve the Rules of Origin, and why we are working on that proposal, because it will get more LDC imports into European markets and it is as crude as that. But if I may just come back lastly to your bicycle, I know the point you are making, that the technology is perhaps more appropriate, more manageable, more learnable, less likely to go wrong, requires fewer

spare parts which might be expensive. I could go on and on as to why a bicycle might be more appropriate than a car, but the reason why I want to start with designing a car is because I think we need a level of ambition for ACP countries. Let us be blunt about it: the arrangements between ACP countries and the European Union to date have not resulted in any growing share of ACP exports. Frankly, the current arrangements, the preference arrangements, have locked ACP countries into a bit of a *cul-de-sac*. They are not even on the highway, let alone the motorway, as far as trade is concerned and that is why a new approach is called for. Yes, more adventurous; yes, more ambitious; yes, more in trade terms technologically challenging but not, I think and I hope, unmanageable.

Q83 Hugh Bayley: I am very pleased to hear the Commission saying that it will ensure the Least Developed Countries do not have to choose between an Economic Partnership Agreement or the benefits they currently get under Everything But Arms. One of the reasons advanced by some people at least of the benefits of an Economic Partnership Agreement is that it is contractual rather than unilateral. I wonder whether the Commissioner would consider binding Everything But Arms in the WTO so as to create a more secure and predictable environment for the Least Developed Countries.

Mr Mandelson: It is something that I would consider but I do not know whether it is possible to do that. I would have to consider the requirements of the WTO and whether I am permitted to pursue that.

Q84 Hugh Bayley: Thank you. Finally, to go back to Rules of Origin, will the Commission consider altering the Rules of Origin so as to allow Least Developed Countries to choose the most competitive supplier of raw materials? You have said that you intend to review the Rules of Origin but are you intending to review them to make it possible for Least Developed Countries to gain the benefits of Everything But Arms even though they source raw materials or components for things they manufacture from outside Least Developed Countries?

Mr Mandelson: That is a very thorny issue. It is not my responsibility. Frankly, that is not a matter that is either easily resolvable or has been resolved between myself and my colleague responsible.

Q85 Tony Worthington: Can I turn to the contentious issue of sugar? If I can quote what you said in Guyana³, you said sugar reform in the EU is necessary and unavoidable but it requires from us two things *vis-à-vis* ACP producers: that we maintain preferential access for their imports and that we accompany this with a robust local adaptation process, so that we have a system at the moment that is unjustifiable in terms of European sugar prices but which the poorer countries benefit

³ *Putting development first: EU-ACP relations, EPAs and the Doha Round.* Statement by EU Trade Commissioner Peter Mandelson at Press Conference, Gerogetown, Guyana, 6 January. Copy placed in the Library.

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from. We have got to get rid of that, because it is unjustifiable, for the reasons you have said, but we are going to maintain preference. How do you do it?

Mr Mandelson: With some difficulty, but I do think it is possible. The Commission's reform proposal, as you know, flows from the unsustainability for European sugar consumers of paying for their sugar at three times the world price and because we have been successfully challenged and we have to become WTO-compliant. So there is an internal and an external dynamic which is causing us to bring forward these reform proposals. The proposal will not be brought forward in its final form until later this year. We are awaiting the outcome of a further WTO Panel, as you know. We appealed against the initial decision. I think I am right in saying that a further Panel is due to report in April, and I would envisage that the Commission's reform proposal is brought forward on the basis of that second Panel by about June. It is based on a combination of, first, a significant price reduction which I accept will affect detrimentally ACP sugar exporters to European markets but I will come back to that in a moment. Secondly, a reduction of quotas. Thirdly, decoupling payments presently made to EU sugar beet farmers to come in line; 70 % of payments made I think to EU farmers at the moment is not linked to production. Some people have assumed that the price of sugar will be brought down so dramatically as to make it level with that of world prices. That is not our proposal. It is currently envisaged to bring down the price of European market sugar by about a third, and that would mean it remains substantially above the world level and therefore there would remain a substantial incentive to ACP producers to export to European markets. However, that in turn depends, frankly, on their efficiency, their productivity and their ability to face greater competition than is the case at the moment, which would follow from the reduction of quotas. That is why it is very important indeed that the European Union accompanies its sugar protocol reform with an action plan backed by substantial amounts of cash, to help ACP sugar producers both diversify within their sugar industries but also diversify away from their sugar industries, and that is what we are currently discussing with ACP countries, and those discussions on that action plan will continue over the coming months.

Q86 Tony Worthington: You refer to substantial amounts of cash. From which budget would that come and for what purpose? It could not simply be cash.

Mr Mandelson: It is budgeted within the financial perspectives of the Commission, it is displacing—if that is the point of your question—

Q87 Tony Worthington: That expression you used, “the financial . . .”? What does that mean?

Mr Mandelson: It is the budget, I am sorry. It is a technical term for the EU budget.

Tony Worthington: Right.

Mr Mandelson: There was an issue, which need not detain us because it has been resolved, about a six month funding gap before the new stream of funding kicked in, and there was a slight difference of opinion between the Trade Commissioner, the Agriculture Commissioner and the Development Commissioner as to how that shortfall should be met and out of whose budget. I am pleased to say that the money has appeared from an alternative source altogether, so the entire thing, the moment the action plan kicks in, will be fully and adequately funded from EU sources.

Q88 Tony Worthington: I am still not clear what the cash is going to be used for?

Mr Mandelson: It will be used to enable sugar industries within ACP countries affected by the reform to carry out processes of adjustment, like diversification into alternative products which would find a readier market, or to diversify away from cane production in the first place. There are a variety of different ways contained in the action plan which can and should help sugar producers in ACP countries, and that is what we have signed up to do and what my two colleagues and I discussed with ACP ministers at a joint EU Agricultural Ministers and ACP Ministers meeting the week before last, and which we will carry on doing in the coming months.

Q89 Tony Worthington: It is very, very vague.

Mr Mandelson: It is vague because it has not yet been published, the action plan, in its final form. It is not vague in content and in fact, but it has not yet been published in its final form. I can assure you, this action plan, which has not been my responsibility, which has been drawn up by the Development Commissioner and his service, is ready for presentation to ACP countries⁴.

Q90 Tony Worthington: So the money may not go into the agricultural sector of those particular countries but might be more of a general subsidy to that country?

Mr Mandelson: No, it will be targeted at the structural change and transitional needs of the sugar producing sectors of those ACP countries. What we want to do obviously, first of all, is ensure the reform is carried out in a way, or designed in a way, which does not put ACP sugar producers out of business.

Q91 Tony Worthington: So it is targeted at the sugar producers?

Mr Mandelson: Yes.

Q92 Tony Worthington: It is something directed to them rather than to the general economy?

Mr Mandelson: If you take, for example, the sugar sector in Guyana where I was at the beginning of the year, I am not saying the sugar sector is the economy of Guyana but it is a very large portion of it and

⁴ Note from the witness: The Commission Staff Working Paper was published on 17th January 2005 under reference SEC(2005)61.

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sugar is not just an economic mainstay, an economic lifeline for that country: what that industry does, what it produces, how it organises itself in the communities from which people are drawn to work in that industry, makes it the foundation of Guyanese society. That is why many of these industries and their circumstances are so fragile and that is why the reform has such huge implications both for the economies and the societies of the countries involved. We have to tread very carefully in making sure that the transitional assistance, the restructuring assistance, that we offer, takes account of that fragility, takes account of the fact we do not want to run those industries out of business but instead makes them more competitive, more able to compete with oftentimes larger scale suppliers which enjoy economies of scale, which enable them to diversify their products, as I have said, and find a more ready market for those products, but also gives social help to the people who are affected by these changes. That is what the action plan aims to do. It will be rolled out on the basis of a country by country assessment, it is not some sort of generalised plan, a single blue-print, take it or leave it, it is a plan which will be based on the assessment of the countries concerned, specific studies will be launched to evaluate the impact of the reform country by country. The first financial assistance, I think I am right in saying, to be rolled out under the action plan will be at the beginning of next year, the beginning of 2006, so we are not allowing the grass to grow under our feet, as it were. In a sense, we are further ahead on our action plan than we are on the agreement of the reform proposal itself within the Commission, but that of course is because we decided to appeal and go back to the WTO Panel.

Q93 Chairman: I know how contentious sugar is and we could spend a whole day just discussing sugar. Perhaps, when we have had more of a written briefing on this from you, we could come back with some written questions?

Mr Mandelson: Yes. Could I say that the reason it is important is because the EPAs are a means, a vehicle, for incorporating our response to this situation for the ACP countries concerned.

Chairman: It is important because there are so many ACP countries who are largely dependent on sugar. Many of the Commonwealth countries and countries in the Caribbean are dependent on sugar.

Q94 Mr Colman: The London Sugar Group have said they would like to see, amongst other things, a ten-year transitional programme and that price cuts should bite for the ACP countries in 2016. The very first question by Mr Bercow was in terms of flexibility but Article XXIV talks about a ten year transition period. Are you intending a ten year transition period for the ACP countries, ie that the cuts in prices will not come until 2016?

Mr Mandelson: I am not envisaging that. When I say "I am not", I should correct myself and say that my Agricultural Commissioner colleague is not

envisaging that. We are, however, envisaging a two-stage price adjustment to enable the transition to be properly phased. We are not proposing to do this in one go and we are not proposing to do it overnight.

Q95 Mr Colman: But a ten year benchmark?

Mr Mandelson: I cannot give a commitment to a ten year transitional period for the introduction of these changes, but the reform proposal has yet to be finalised and will not be put to the Council I think until June of this year.

Q96 Mr Bercow: I would like to come back to the whole rationale behind the trade, justice and development agenda and the rationale on which, I hope, we can all explicitly agree. It is not about us, it is not about the European Commission, it is not actually about ACP countries, it is about giving the poorest and in some cases the most destitute people on the planet a chance to compete and to grow. I do not know, Commissioner Mandelson, just how far your tentacles can be expected to spread. I do not know what the furthest reaches of your crusading zeal will prove to be but I wonder if—

Mr Mandelson: I do not know where this is leading you but anyway!

Q97 Mr Bercow: I know exactly where it is leading me!

Mr Mandelson: I want absolutely nothing to do with campaigning zeal, thank you very much! I had my first taste of campaigning zeal on the *Today* programme!

Q98 Mr Bercow: Surely you are not losing your appetite for that now. We would be very distressed if you were.

Mr Mandelson: Appetites can change with age!

Q99 Mr Bercow: On the wider trade agenda, if you take some of those countries which are not principally concerned about sugar but, for example, cotton, and you reflect on the debacle of Cancún, you will recall Benin, Burkina Faso, Mali and Chad depend on cotton for something like 30 to 40 % of their export earnings, and they were frankly presented with the height of arrogance by the United States.

Mr Mandelson: The United States.

Q100 Mr Bercow: To what extent can an agreement of the kind you have been describing this afternoon significantly atone for the terrible damage that was done to the living standards of farmers and others in those countries by the grossly protectionist trade policies being pursued by the United States, and are you going to try and do something about them?

Mr Mandelson: I do not want to attribute motives to the United States, nor do I necessarily accept your characterisation of the US in this. It is more of a mixed picture, to be fair to the United States. Your real question, I think, goes back to the original exchange we had, and that is just how ambitious and how sophisticated can we be without overloading the system and being so smart that we never get it to the

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launch pad so when we light the blue touch paper and attempt to send it up, it is just too overloaded, it does not get off the pad. I think my response to that is best expressed in this way: that without seeking to export or thrust the EU model down anyone else's throat—heaven forbid—we in Europe have benefited a great deal from regional integration, we have benefited a great deal from building a very competitive regional market—not competitive enough in my view, which is why I am such a strong supporter of economic reform and measures to promote competitiveness in Europe, which is why I so strongly support the Commission's revamped Lisbon Agenda, I am pro growth in Europe, I am pro competitiveness in Europe, just as I am pro the poor in the world, and, incidentally, I do not think you can be one without the other. A more competitive, better performing Europe means we can be more generous and more forthcoming in what we can do with and for the rest of the world. I think it is an interesting model. I think that one of the hallmarks, one of the chief features, of the partnership agreements which I find most attractive—apart from their overall development dimension and character—is this very essence of regional integration, enabling ACP countries, groups of ACP countries, to create and grow regional market arrangements that offer them initially better protection as well as better market opportunities and a better chance to realise the comparative advantage that they would have if they were simply struggling in isolation and apart from their regional neighbours. I think the European model does have something to offer in that respect. I think that we can use regional integration, growth of regional markets as a way both of multiplying the effects and the impact of the aid and development assistance we apply, but also multiplying the attractiveness to foreign direct investors to come into those markets. It is a very different proposition if you are saying to an investor, “Come and invest in my country and we will do this, that and the other for you” from saying, “Base yourself in my country, you will have the opportunities and advantages of knowing that based in this country you will be able to multiply the effect of your investment around an entire region and not just in the country alone.” It is

the same principle on which we attract foreign direct investment into Europe's single market. I think it is an attractive principle, it is a good principle, it is why I am pro-European, and it is why I would like to see the benefits and advantages of our model, albeit redefined, recalibrated, retailored, to the needs and interests of some of the weakest and most vulnerable countries in the world, and that is the ACP countries.

Q101 Chairman: Commissioner, thank you very much for coming and giving evidence this afternoon. I think we will read and study all you have said because you have said quite a number of new things this afternoon. You have been described as a second-hand car salesman, and I was not quite sure whether you were described as a dog or a bone, but I hope you will explain to Commissioner Michel, who is coming to give evidence to us, that in the House of Commons they are terms of endearment and nothing else. I hope that the Committee might be able to tempt you back in the autumn to come and talk to us about the WTO and Hong Kong. As you know, we have taken a very considerable interest in the WTO, we produced a report both before and after Cancún⁵. We are very grateful to you for coming today because I think we all thought cotton and ACP and these negotiations had been rather forgotten and we are grateful to discover they are not.

Mr Mandelson: Chairman, thank you very much. I would be delighted to return in the autumn, when we will be that bit nearer Hong Kong and that bit nearer either a famous milestone or a disaster looking us in the face, but I am optimistic. In the meantime if any of your members have not heard sufficient from me or about my views, perhaps I could leave you a copy of a lecture which can be duplicated and circulated to the Committee which I delivered at the LSE last Friday entitled *Trade At The Service of Development*⁶.

Q102 Tony Worthington: We have it!

Mr Mandelson: You have it already!

Chairman: Thank you very much.

⁵ See footnote 17.

⁶ Lecture made at the London School of Economics, 4 February 2005. Copy placed in the Library.

Thursday 24 February 2005

Members present:

Tony Baldry, in the Chair

Mr John Bercow

Tony Worthington

Witnesses: **Mr Louis Michel**, European Commissioner for Development and Humanitarian Aid, and **Mr Lawrence Meredith**, Member of the Cabinet of Commissioner Louis Michel, examined.

Q103 Chairman: Commissioner, thank you very much for coming and talking to us today. We are slightly light on numbers because quite a number of our colleagues are either in, or returning from, Iraq. Those of us here did not go to Iraq simply because we went to Darfur. As you know, we are a Committee that sits for five years, so we have been reasonably experienced in development matters. I would like to start by asking you about the Commission's review of development co-operation. We have as an article of faith that poverty eradication should be at the heart of all development policy. Are you reasonably confident that, once the Commission have completed their review of development co-operation, poverty eradication will be at the heart of European development policy?

Mr Michel: Two-thirds of the poorest populations are living outside of the Least Developed Countries (LDCs). Consequently, the percentage of the official development aid to the LDCs is not an exclusive criterion, nor the most pertinent to measure the efficiency of the struggle against poverty. Having said that, over the last 20 years, the official development aid from the European Union to the LDCs has increased by about 350% as opposed to 200% for the Member States of the DAC, to the same LDCs. Consequently, Community aid to the non-LDCs has been additional funds. Of course, it is important but that did not prejudice the poorest countries and in the future we will go on monitoring, jointly with the Council and the European Parliament. The UK has launched a very important initiative for Africa, which covers most LDCs. I share this analysis and, of course, I will be proposing very soon to the Council of the European Union a whole package of measures in this direction. I will be the first to welcome the European Development Fund (EDF) being included in the contribution of the United Kingdom—and the budgetisation of the EDF should also be an excellent way to increase this contribution. I think your House has a key role to play in this objective.

Q104 Chairman: It is obviously very encouraging if you are hoping that more EU development assistance will go to Africa, but let me just explain our suspicions to you. When we were looking for extra money for humanitarian assistance to Afghanistan, the EU did not have an immediate budget and I remember Chris Patten telling us that he had to raid the EU Moroccan fisheries budget to give money to Afghanistan. Many of us could not understand why it was necessary for the EU to give development assistance to Moroccan fisheries in the

first place. There is a suspicion that much of the EU development budget in the past had been used to assist neighbouring middle-income countries in North Africa and elsewhere as a political instrument, rather than being focused on pro-poor policy.

Mr Michel: I share your opinion. I do not take a different position on that about the future. I cannot assure you that this kind of approach will completely disappear, because you know that there are many different streams and many different opinions in the European Union about development policy. You have those, including myself, who think that development policy has to focus on the poorest people in the world and you also have other people who think that it is necessary to focus on this objective but at the same time that you should also have some political objectives. Part of the very difficult debate we will have is what is the place of development policies in the external relations policy. That is the most important issue. Some people might consider that development is only a tool of external policy. Of course, I cannot agree at all with this concept or this opinion. You can count on me to try to go in the right direction.

Chairman: We are clearly at one on that. Indeed, if at any time you feel you need support, I have no doubt this Committee, and indeed the UK Parliament, would very much support you in that approach.

Q105 Tony Worthington: Commissioner, given the make-up now of the European Union, the 25 countries, and the fact that there is now a Foreign Minister within Europe who is responsible for the directorates that deal with external affairs, which obviously includes yourself, one might want poverty to be the centre of this budget, but is that not wishful thinking? The guns are against you.

Mr Michel: There is always a risk, of course. First of all, I hope the constitution will be ratified, because when you look at the constitution you will see that there is a very clear separation in the constitution between rights, policies and development. It is very clearly guaranteed that development is not a tool of the external relations policy. Let us be realistic. There will be a temptation, I know that; and you can count on my determination and my convictions not to accept this. I announced this. It is also the reason why, in using the financial instruments, for instance, you will have a stability instrument for the Minister of Foreign Affairs, Security and so on, and you have, as part of that, an instrument that covers political development and also economic co-operation. We

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have our own financial instrument. The future Minister of Foreign Affairs of the Union will have his own instrument and there is an agreement—and they have had a discussion about that in the Commission—that even for development we should be allowed to use the stability instrument of the Minister of Foreign Affairs. It is a question of struggling here, of course, and it will have all my conviction. I believe strongly in the MPs backing this point of view and backing this opinion, but I can accept that there is a risk, of course; there is a temptation, naturally.

Q106 Tony Worthington: With respect, there is more than a risk. If I was an Italian MP I would be concerned about Albania. If I was from one of the new joining states I would be concerned about Ukraine and all that area around there. If I was a French MP I would be very concerned about North Africa. We have seen that that has distorted the existing budget. Would it not be more sense to have a situation where you recognise that one budget cannot contain all these aspirations?

Mr Michel: That is not the case. It is totally normal that the European Union can focus on its neighbourhood policy, because in fact the problem you are asking is linked with all the questions about the neighbourhood policies and these neighbourhood policies have a lot to do with the security in Europe in the broadest sense of the word. So it is still completely normal that we have this on the agenda, of course. It is not the money of my department that will pay for these policies; it is completely separate. It will be very important during the debates about the financial perspectives at the end of the year that the situation remains as it is foreseen at the moment. We have our instrument; it is an instrument for development and economic co-operation; it is in fact ring-fenced. I cannot and I will not, and they cannot, take one single euro from this budget to finance policies in the neighbourhood. It is another budget, another instrument, that deals with that. In fact, the reality is that we have already done what you want.

Q107 Tony Worthington: If you had to ask people which country in the world should receive the highest per capita allocation of development funding, hardly anyone would come up with Morocco, but that is what has happened.

Mr Michel: I understand your question, but it is in fact a problem of priorities for European policy in general. For instance, co-operation with Morocco and for these kinds of countries is of a completely different nature from co-operation with the ACP countries, it is completely different. Why is there an EDF, for instance? Why is there a known budget for the ACP countries? It is because the great majority of the countries of the ACP are LDCs. There is a reason why they have their own budget, and you cannot take one single euro out of that budget to finance another policy. Is the money which is spent on those countries a priority, or should we not use that money or spend that money on the LDCs? That is your question. That is a political decision for the

EU. The EU has to judge if it is politically important or useful for our own statutes as political powers to help Morocco and to help boost those countries. Is it important for our own safety, for our own security, to have co-operation with those countries? I think it is important. Will this take a massive amount of money for the ACP countries and for the LDCs? That is a question you must ask. You are Members of Parliament. We have to make choices. In my very humble opinion, there is no tension between the money spent in the south Mediterranean countries and development in general for the LDCs. I know, of course, that this debate you are launching exists among us, and we are discussing it very often; but it is also the reason why I think it may be interesting to have budgetisation of the EDF, because with budgetisation you have more transparency and you also have co-decision. Co-decision plays a very important role and it is a power of the European Parliament. The European Parliament's view is rather close to your ideas. Me too!

Q108 Tony Worthington: You were kind enough to mention the initiative taken by the Government of this country in terms of Africa and our wish that Africa should be at the centre of our Presidency of the EU and the G8. We have a Commission for Africa about to report and we had the review of the Millennium Development Goals. Do you have any words of optimism for us about how Europe may be able to improve its contribution either in amount or in quality or purpose for Africa, where so many of the poorest countries are?

Mr Michel: First of all, let me say that I am a rather lucky man now because, six years ago, I felt a lonely man when I tried to put the focus on Africa on the agenda. Thanks to countries such as yours, now everybody seems to agree that Africa has to be focused on. That is good news. The second piece of good news is the fact that the UK, having the chair of the European Union and the G8, can create better conditions to implement programmes focusing on Africa. Thirdly, I announced already as Commissioner that I should completely follow the works of the Commission for Africa, and that I was completely in favour of using the tools and also some money from the European Union to implement the agreed programmes which come out of the Commission for Africa. I think it could be important and very interesting. I am not competing with the Commission for Africa. There is a lot of expertise and a lot of political goodwill and I think that is important. We will work together. I have already had meetings with Hilary Benn and Jack Straw, and I also met with Gordon Brown to speak about the financial aspects. I will speak with both of them today once more and they know that I am rather in favour of this approach. Of course, I know it is also politically charged and I know it is very important to have the backing of all the Council and the Commission. For instance, in my opinion there is an urgent need to increase the capacity-building of

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some regional African organisations, because I strongly believe in regional integration for development.

Q109 Tony Worthington: What do you have in mind? Which of the regional organisations do you think need strengthening?

Mr Michel: First of all, there is one which covers the whole of Africa; it is the African Union and its Commission, chaired by Konare. I think Konare is a man who has a vision. So we have to take as an improvement the fact that for the moment we have such people leading the African Union. I also think ECOWAS and SADC are organisations which are gaining more and more credibility. If you take the case of Togo, for instance, I was really very impressed by the statement made by the ECOWAS, who were there, and in fact it was the first organisation to react immediately urging Eyadema's son to retire. They made a statement of the same nature and it is the most tough statement that we can take in the European Union. I think it is important for ownership that they should do it themselves first. I think we have to strengthen these organisations in order to implement the two—to reinforce the political capacity and the political credibility, and also the technical credibility that they need. For instance, the institutional structure of the African Union is built on the European model, so it is rather easy to have good contacts with them and to exchange expertise and some structural habits. I think it can work. We can also help them to improve and to increase by financial means but also with know-how that we can transfer. For instance, they have 300 people working today for the African Union. If you compare it with the European Union, there is a small difference. I think we have to try to help them to increase this capacity-building. For instance, let us take the observations of the elections today. They are fully qualified to do it. With the SADC, for instance, we have some good partners to do that, and that is ownership.

Q110 Mr Bercow: Commissioner, how has the creation of Europe Aid impacted upon the delivery of development assistance? Given that you are not the Commissioner responsible for Europe Aid, can you tell the Committee what exactly is your role in relation to it?

Mr Michel: For the ACP countries I am in the lead politically, technically and so on. I have also the lead on development. In fact, I am in the lead with development on all these countries, of course, in consultation with Mrs Ferrero-Waldner. For the other countries she is in the lead, and she is in the lead in consultation with me. I confess to you that it is not the most efficient way to work, but it works, and until now we have not quarrelled at all. It is not the most current construction and sharing of responsibilities that you can have. The best way for me would be that I should lead AIDCO. I am not allowed to say what I would do if I had the power or were alone.

Q111 Mr Bercow: Oh, go on!

Mr Michel: I think I should take AIDCO and I should make one tool of this, but it is not on the table for the moment. Due to the fact that we are now working with 25 countries, it was not so easy to define the responsibilities. In another life I was in favour of not having 25 Commissioners but less, in order to make it more efficient. For the moment it works. For my countries, for my programmes, I give input to AIDCO and I can follow up the implementation of my programmes, but I confess that there is something that looks like being an incoherence in this structure.

Q112 Mr Bercow: Did you say an incoherence?

Mr Michel: Yes. Theoretically there is a potential for incoherence.

Q113 Mr Bercow: A potential for incoherence; but a potential for incoherence, I put it to you, that is likely to materialise to very considerable damaging effect over a period. Given that at the heart of the problem is the fact that you have responsibility for policy formulation, that Europe Aid, over which you do not preside, has responsibility for implementation, that is a pretty fundamental gap between making a policy and being accountable for the implementation of it. Do you think that in the review of European development policy there will be, or are you pressing for there to be, a change in the relationship between DG Development on the one hand and Europe Aid on the other?

Mr Michel: My wish is not for such a decision and that is not even a political statement; I cannot do that. In fact, I can control the implementation of my programmes and my decisions. I can also give orders to AIDCO in order to have all the guarantees that it has been implemented. I cannot argue against your arguments. Of course, it would be easier to be in a system in which I had the lead on AIDCO, but that is not the case. The sharing of responsibilities did not allow things to be as simple as that.

Q114 Mr Bercow: The truth of the matter is that it is a mess, it is a fudge, it is a completely illogical compromise because on the one hand you have the constitution, to which you have proudly referred, asserting the primacy of poverty reduction at the heart of EU programmes; and on the other hand you have, from your point of view, the very irritating reality of DG External Relations showering funds on projects which might not be your personal choice and which, frankly, have precious little to do with poverty reduction. What has brought about this compromise is the conflict between, on the one hand, the Community wanting to say yes, we are doing a great deal about poverty; it is very important; we are helping the LDCs; we want to help all people, *et cetera*, but on the other hand thinking that it is a sort of superpower as well which has to keep its client states happy.

Mr Michel: To be honest, you seem to me to be being too severe about our policy. The structure is a heritage of the past. The heritage is not due to a kind of devil idea, of using this as a tool. The President

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has to organise the division of responsibilities and the French Commissioner was not happy with his portfolio. That was the reason why he shared some responsibilities, in order to make the package Delors just a little bit weightier. I was told that was the reason. Since that time it has remained, and my good friend Chris Patten has also coped with this and has been efficient in his role as Commissioner of External Relations.

Q115 Mr Bercow: I suppose, Commissioner, the point is that there are quite a lot of people who would say—and, who knows, I might be amongst them—that spending money on the near abroad, having a conception of good external relations, security *et cetera*, is perfectly legitimate and an entirely proper use of funds, but it ain't got anything to do with poverty reduction and therefore it should not be called aid in the classically understood sense. Given that Britain has what is generally regarded as a pretty good and efficient bilateral aid programme, which on the whole does get to the people who need the help most, what do you think European development policy adds that Member States acting on their own in pursuit of the MDGs cannot do?

Mr Michel: First of all, the reason why I am for the moment discussing a lot, listening a lot and also consulting a lot, to rewrite in a certain sense the European declaration for development, and to have a kind of structured strategy for the following years, is because it is a good opportunity. It is also a sign that I do not completely agree with what you are saying, because I think it is important to incorporate the Millennium Goals in our strategy. But that is in fact not really the case, because in the Declaration of 2000 you do not have a reference to the Millennium Development Goals. It is not in the main objectives of the declaration. That is a first reality we have to take into account, and it will be an opportunity to go more in the way you are describing. Secondly, all the Houses and all the Parliaments are invited to give their opinion and to work with us on this. We have a website where you are invited to react to our proposals. There is an issue paper which has been sent to all the Parliaments. So we are really willing to ask Europeans about that. Thirdly, the Declaration of 2000 did not take into account two main realities and events, the first one being terrorism. In 2000, the consciousness of this danger was not so important as today. This is very important and it has obviously a link with development in my opinion. Fourthly, the consequences of globalisation. I am not among those who think globalisation is in all cases a negative process for development; on the contrary. You have to put some safeguards into this. For instance, in the Nineties the dominant thinking about development was that if we liberalise in all these countries, at the end of the day it will be a success for those countries and the social field will be improved. I am a convinced liberal, but I am not convinced that liberalisation in all these countries—without very strong measures of accompaniment and of support—is the miraculous solution. I am not sure about that at all. Some thinkers today, even liberal thinkers, are now changing their minds

completely. They are much more nuanced today. I think we have to take this into account. To be honest, if we are intellectually honest we have to say, “If you liberalise, you have also to bring in some incentives in order to make it possible for those countries to accept and to live with that.” In the first phase of liberalising—you have seen that also in the former eastern European countries—you very often have social catastrophes. Yesterday I had very difficult negotiations with the ACP countries for the revision of Cotonou and we succeeded, and they have an agreement. I had to promise them that I would work with Peter Mandelson on the Economic Partnership Agreements.

Q116 Mr Bercow: You want to ensure that those agreements are not classic free trade agreements but very, very, very heavily development focused?

Mr Michel: I had to promise them that there would be a very important development wing, in order to make it possible for them, in the first phase, to face the difficulties and the negative consequences from the implementation of the conditions. I promised that I would have a very close discussion with Peter Mandelson about that; that we would work together on this, and I promised them that we would be at their disposal to work with him on this.

Q117 Chairman: I would like to go on to the Economic Partnership Agreements. DG Trade's negotiating mandate for Economic Partnership Agreements goes beyond the Cotonou Partnership Agreement. There are those who have called for the mandate to be changed, to withdraw the demand for reciprocal trade liberalisation and negotiations on investment, competition policy and public procurement. Are there any changes you would like to see made to the European Commission's negotiating mandate on the present negotiations going on with the ACP countries?

Mr Michel: I did not understand. Can you repeat the question?

Q118 Chairman: Let me put it more bluntly. At Doha, on the WTO development negotiations, the new issues—which is a piece of political shorthand for public procurement, inward investment, competition policy—were withdrawn at Cancún, although they are still on the table. There are those who say they should be withdrawn as part of the negotiations. This is an issue which is of some significance. Do you have a view on that, and would you like to see the negotiating mandate changed in any way?

Mr Michel: I am not asking for a change to the mandate of negotiation but for the incorporation of the issues which were in fact put on one side in Cancún when I attended Cancún as Minister of Foreign Affairs. I am rather in favour of maintaining all the issues on the table. I am not sure the best thing would be to share the issues. The World Trade Organisation has to tackle all these issues and that is the reason why I am not in favour of putting them on one side; it is just too easy.

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Q119 Chairman: What work do you see DG Development undertaking to ensure that ACP countries had a real choice between an Economic Partnership Agreement and a pro-development alternative?

Mr Michel: You know that they are not obliged to choose an economic partnership, but we will put forward some incentives in order to help them; for instance, we could develop programmes that can put them in a better position to make a profit from all the economic partners. For instance, there is access to our markets. It is not only a question of no taxation, it is also a question of whether they have the ability and the capability to implement products that are acceptable on our markets. For instance, we have standards in Europe for food security. If they want to have access to our markets then we will have to help them to reach our standards of produce. These kinds of programmes we will back and support. You know that we are also financing expertise in order to put them in a better position to negotiate even with us. We finance expertise in order to make them stronger in the negotiations against us and I think this is rather positive.

Q120 Chairman: Recently DG Trade have said that regional integration of the ACP countries is the objective of the Economic Partnership Agreements mandated in the Cotonou Agreement. Our Department for International Development have warned that there is “a danger that the European Union is seeking to impose a European model of regional integration on developing countries which is at least out-of-date and probably inappropriate”. I just wonder, Commissioner, what co-ordination mechanisms are going to be used to ensure that development remains at the centre of the EPA negotiations. It would be somewhat strange in the WTO negotiations if we were looking for a development round and that was not going to happen in the EPA negotiations.

Mr Michel: First of all, on the model of the regional institutions, I am a very strong believer in the European model as a regional institution. Maybe we can diverge from this. I am a strong believer that the European institution is a rather efficient and positive model. If I had a wish to express, it would be that the African organisations should agree the same kind of integration as the European model. Maybe in this country it is difficult to accept this, but you also have to accept that that is my own opinion about the European model. I am in favour of the European model. I have a lot of respect for the Africans and I do not want to impose a European model, a Belgian model or a UK model. You would be surprised if I did not express my ideas about a particular model in Africa. I am not sure we are always right when we try to impose our models, but that is another debate. I respect, of course, the characteristics of the regional institution and models. What co-ordination mechanisms are used to ensure that development remains at the centre of the EPA negotiation? There are three levels of co-ordination that are foreseen. At my level, we have very regular meetings with the Commissioners for External Relations concerned

and more particularly, of course, with Peter Mandelson who is in charge of trade. We have an internal task force in the Commission on trade and development and also country and regional teams which organise very frequent ACP meetings. Although certain services are participating in a global way in order to take account of the relations that exist for every individual country, a third level has now just been put in place between the ACP countries and the regional organisations. These regional task forces are in fact called regional preparatory task forces and they have as an objective to maintain a link between trade and development. For the two first levels, the experience has been really positive and we are looking, along with Mr Mandelson, to have means to optimise the supervision of the whole process of the Economic Partnership Agreements. I think it works rather well. Peter Mandelson has a development mandate as Trade Commissioner in this case. We are working a lot together on the consequences of the sugar reform and on other issues.

Q121 Tony Worthington: I just want to be clear that I understand you. On the one hand you have these Economic Partnership Agreements which are being negotiated with the ACP countries by one section of the European Union and because of the concern that there is about what the impact of this liberalisation might be on those countries there is another section of the European Union which is commissioning Sustainability Impact Assessments, but there does not seem to be any link between the two. Why is that? Can you give an example of where the Sustainability Impact Assessment has altered the outcome of the EPA?

Mr Michel: In fact, the ACP countries were actively encouraged to realise Sustainability Impact Assessments on a regional level and on a national level. I think you know that the Commission has financed several of these studies. The Commission has very little information about these studies because the people of these countries consider that these studies are part of their own strategy on trade relations with their own countries. Their opinion is that they do not have to deliver the information they have from these studies in order to be in a better position to discuss with us. The European Union on the whole is also studying these Sustainability Impact Assessments and at the moment these are giving some interesting results. For some very sensitive sectors, for instance in West Africa and also in the Pacific Islands, we have had some good results. The Sustainable Impact Assessments (SIAs) are important in my opinion in order to have that aspect of sustainability, because if you give money in order to back regionally integrated economic agreements I think it is important to have results. How are we working? We are pushing south-south integration and south-south relations, but we are also pushing at the same time north-south relations and co-operation in order to put in motion at a certain moment a virtuous circle of economic development and, of course, democracy, capacity-building, good governance and so on.

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Q122 Tony Worthington: If you are development-minded, as you are, and Mr Mandelson is development minded, as he told us a few weeks ago when he said that he is concerned about the relief of poverty, why have you got the EPA and the Sustainability Impact Assessments going along in parallel lines rather than integrated lines? Why do you not look at the consequences of what you are doing before you do it rather than putting it right after you have done it?

Mr Michel: The Sustainability Impact Assessments are taking place before the EPAs begin working, so we are doing as you wish. It is not afterwards that these Sustainability Impact Assessments are made. It is in fact proactive the way that we work.

Q123 Tony Worthington: If they are done beforehand, can you give an indication of how the SIA has altered the EPA?

Mr Michel: I cannot answer that question. I think that question will have to be put to Peter Mandelson. I have explained the system to you. We are making SIAs. Of course, this has to influence the nature and the content of the Economic Partnership Agreements otherwise it would not help, there would be no reason to do it. The objective of these SIAs is principally to measure the efficiency of the measures we take within the framework of the regional integration strategy.

Q124 Chairman: Commissioner, in the few minutes we have left I would like to ask some very quick questions. Development NGOs, do you see them as allies or as an irritant?

Mr Michel: Both. Of course they are natural allies, but sometimes I get irritated. Maybe it is my own culture, I do not know. I am irritated when some of them consider they have a monopoly of good sense, of morality and that politicians do not deserve to have the role which they have in development policies. Too often, some of them think they have the good solutions and that politicians are not able to see what is good for people, but you know that. I also get irritated when some of them, very few, present a lack of transparency and are struggling to win marked portions of poverty, because that is not the objective and sometimes I have a feeling that is the

case. In these circumstances I get highly irritated, but in general I consider them as my best allies. A lot of them have developed, for instance, a very high level of expertise, of professionalism and that is the reason why I am not in favour of creating on a European level a quick intervention corps, in case of catastrophes and so on, because I believe that before the European Union should be able to form such a corps, as good professionals they should be able to produce the same good work as the people of the NGOs working on the ground. I think we need years and years. It will cost a lot of money. I think we have to go on working with those people. They will do it better than professional co-ops would do. I recognise they have a very high level of competence and professionalism. Sometimes I am aligned with them; sometimes I want rid of them.

Q125 Chairman: Commissioner, you have been very generous with your time. We know that your next appointment is at Downing Street and we promised that you would be away by 10.30. I think that comes to a natural break. You have dealt with the budgetising of the EDF in your answers. Hopefully you will find this Committee and the UK Parliament, on development issues, good allies, although I suspect we will occasionally be irritants, but generally I think you will find us good allies. We are very grateful to you for having come and shared your ideas with us here today. Your comments will reach a much wider audience than here because it is being broadcast and so forth. Thank you very much for having joined us. We look forward later this year to coming and visiting you in your offices, if we are invited, and continuing this dialogue during the course of your term as a Commissioner.

Mr Michel: Thank you, Chairman, for your very kind words. I was very impressed by the quality of the questioning. The impression I have gained is that you have a very strong conviction but also that you know the programme very well. I am sure it is a good thing that we can discuss even about divergence. I think it is always a good thing in a democracy. Naturally, I would be very, very happy to welcome you, or a group of MPs, to meet with us in the Commission and I promise you that I will be a very good guide.

Written evidence

Joint memorandum submitted by Department for International Development and Department of Trade and Industry

SUMMARY

1. We welcome the Committee's decision to hold an evidence session on the emerging Economic Partnership Agreement (EPA) negotiations between the EU and African, Caribbean and Pacific (ACP) states.

2. The Government is committed to ensuring that EPAs produce *real* developmental benefits for the ACP states, consistent with the aims and principles of the Cotonou Agreement. EPAs will not be Regional Trade Agreements in the traditional sense. They are intended to be new instruments that will promote development through trade, by maintaining ACP preferential access to the EU market, whilst assisting ACP countries to benefit from further integration into the world trading system.

3. Negotiations of EPAs are still at an early stage and therefore much of the substance of the agreements, such as coverage, transition times and rules, have yet to be agreed. The key challenge will be to ensure that the development objective is central to the negotiations. This will include giving ACP countries sufficient flexibility over the timescale and sectors in which they are required to open their own markets to the EU and to their neighbours. Given many of the ACPs' least developed or vulnerable economy status, longer transition periods will be required than in other trade agreements. This is essential if they are to promote, rather than undermine, ACP countries' national development and poverty reduction plans, and their regional integration efforts. The negotiations must include the provision of capacity building to support the ACP in negotiating the agreements, technical assistance in implementing the agreements and trade adjustment support for individual ACP countries.

4. The Government will continue to work closely with the European Commission, other EU Member States, ACP countries, NGOs and the private sector to achieve agreements that help the ACP harness the potential of trade to promote economic growth and sustainable development.

COTONOU AGREEMENT AND THE NEED FOR CHANGE

5. The Cotonou Agreement has three pillars: political co-operation, trade growth and development assistance. Its objectives are: *"To promote and expedite the economic, cultural and social development of the ACP states, with a view to contributing to peace and security and to promoting a stable and democratic political environment. The partnership shall be centred on the objective of reducing and eventually eradicating poverty consistent with the objectives of sustainable development and the gradual integration of the ACP countries into the world economy."*¹

6. The Government is fully committed to achieving these objectives. The UK Government's desired outcome for the negotiations is to help the ACP better realise the potential of trade to stimulate economic growth and development through increased trade with the EU and with each other. The outgoing European Trade Commissioner, Pascal Lamy, has described EPAs as tools for development. The EU as a whole has made clear that we do not have "offensive" market access interests. In the 2004 White Paper on Trade and Investment, the Government has made a clear policy commitment that the UK will seek to hold our EU partners to this.

The Failures of Preferences

7. ACP countries have enjoyed long-standing preferential access to the EU market under successive Lomé conventions and now the Cotonou Agreement. These preferences were designed to benefit traditional ACP trading partners, more than half of which are least developed countries (LDCs) and other vulnerable, small island and landlocked states. The margins of preference that resulted depend on both the EU's standard tariff for each product (its MFN rate) and the preference granted to the ACP (for example duty free or x% of the MFN rate). Preference margins vary for each product but can be as high as 24% for some fisheries products. However, preferences have failed to boost ACP exports as intended, for a number of reasons, including supply side constraints in the ACP economies and the erosion of preferences over time due to multilateral trade liberalisation (that has reduced MFN tariff rates). By 2002, only 3% of EU imports originated from ACP states, as compared to 6.7% in 1976.

¹ Article 1, Cotonou Agreement, 2000.

WTO Compatibility

8. In addition, these preferences are incompatible with WTO rules. One of the central tenets of the WTO is non-discrimination. Developed countries can apply lower tariff rates (ie offer preferential access) to exports from developing countries, thereby discriminating between developed and developing countries under WTO rules. However, with the exception of the WTO recognised category of Least Developed Countries (LDCs), they cannot discriminate between developing countries. This is exactly what Lomé/Cotonou preferences do, in discriminating between those developing countries that are members of the ACP group and those that are not.

9. The preferences are currently covered by a WTO waiver until the end of 2007, hence the planned timetable for EPAs to come into force in 2008. The waiver was only secured after lengthy and difficult negotiation. The EU could seek to have this waiver renewed, which would require the agreement of at least three quarters of the 148 WTO members although in practice waivers of a magnitude such as this are usually adopted by consensus. However, the European Commission, and the Government, judges that the consensus required to extend the waiver is unlikely to be forthcoming due to the high probability of a challenge from non-ACP developing countries.

10. The existence of a WTO waiver is not in itself sufficient to protect these preferences. The waiver will provide protection against challenges based on specific provisions of the WTO agreements mentioned in the waiver but would not protect the EU against challenges based on other provisions not specifically referred to in the text of the waiver. The Philippines, Thailand and Indonesia successfully challenged the EU's preference for some ACP fish exports on the grounds that this discrimination against non-ACP developing countries was harming their domestic industries. The situation was resolved through the creation of a specific quota for these Asian exporters. By extending preferential access to the EU market, the value of the ACP preferences was reduced, thereby affecting the profitability of ACP industries.

OPTIONS AVAILABLE TO ACP STATES UNDER COTONOU

11. EPAs, linked to support for trade related capacity building and wider development assistance, are intended to support ACP countries' integration into the global economy on a more sustainable basis than continuing dependence on eroding trade preferences. The intention is to promote structural transformation and diversification of ACP economies into sectors in which they have a longer-term comparative advantage. The stated objective is that they should enhance "*the production, supply and trading capacity of the ACP countries as well as their capacity to attract investment*".

EPAs

12. The Cotonou Agreement provides the framework for this integration and within it, the ACP and EU have chosen to negotiate RTAs with self-selected groupings of ACP countries. To be WTO-compatible, these RTAs must include reciprocity. [See paras 19–25.] However, EPAs go beyond conventional RTAs, as they will be negotiated within the broader development framework of the Cotonou agreement. Any change to current trading arrangements is of significant concern to ACP countries, as the EU is the major trading partner for most, particularly African members.

13. The ACP regional groupings and the EU have agreed to "roadmaps" for the EPA negotiation² which reflect the "stepping stone" approach to ACP market opening to the EU. The first stage in the negotiations is *regional* economic integration. The Cotonou Agreement explicitly states that the new trading arrangements must help accelerate the process of regional integration among ACP states as a basis for their further integration into the multilateral trading system. It also includes a phased approach to ACP tariff reductions to "*remove progressively barriers to trade between [the EU and ACP] and enhance co-operation in all areas relevant to trade*".

Alternatives to EPAs

14. LDC members of the ACP already have full tariff and quota-free access to the EU market under the Everything But Arms (EBA) regime. Many LDCs at present choose to use Cotonou preferences, rather than the theoretically more generous EBA access. This is because Cotonou rules of origin (ROOs) are more generous than EBA rules, allowing ACP countries to source inputs (cumulate) from any other ACP country.

15. Article 37.6 of the Cotonou Agreement states that, in the case of non-LDC ACP states, all WTO compatible alternatives should be considered in 2004. The Commission has subsequently agreed to postpone this review until 2006 at the request of the ACP. The roadmaps contain opt-out clauses

² Each ACP region has developed a "road map" for Phase II of the negotiations. These detail the negotiating structure, priority issues and indicative schedule of negotiations.

should an ACP region, or any country within it, wish to pursue an alternative arrangement instead of an EPA. The Cotonou Agreement states that should this occur, the ACP country should enjoy *no worse* market access to the EU than they currently enjoy under the Cotonou preferences.

Possible alternatives include:

EBA access for all ACP

16. The EU could grant greater preferential access to ACP non-LDCs through the Generalised System of Preferences (GSP). The GSP is currently being reviewed with a revised GSP coming into force in 2006. “Everything But Arms” (EBA), is an arrangement within the GSP that gives all LDCs duty and quota free access to the EU market (including for sugar, rice and bananas by 2009). A further proposed arrangement within the GSP, GSP+, will give close-to-EBA access to developing countries that ratify key international conventions, such as human rights treaties, ILO conventions and good governance agreements. Extending EBA access to non-LDC ACPs through either the GSP+ or EBA itself, would therefore fulfil the commitment in the Cotonou Agreement that any ACP states unable to enter into an EPA should enjoy no worse market access to the EU than they currently do. The Government will work closely with the Commission to ensure that the renegotiated GSP could be amended to provide a viable alternative to an EPA, should any country wish not to join one.

17. The UK Government argued strongly for an ambitious result on market access in the development of the Commission’s negotiating mandate for EPAs and a statement to this effect, supported by the Danish Government, was annexed to the text.

Bilateral Trade agreements

18. A further option would be for the EU to enter into bilateral RTAs with those ACP states that choose not to enter into a regional EPA. However, such an agreement would have to meet the same WTO rules on RTAs as EPAs. Although the individual ACP state would have greater scope to tailor the provisions to its specific needs, a single country would be in a much weaker negotiating position with the EU than within a regional grouping. Under a bilateral RTA, an ACP state would neither gain nor cede market access to other ACP states. This would at best bypass and at worse obstruct autonomous moves towards greater regional economic integration.

RECIPROCITY IN EPAS

19. NGOs have expressed strong concerns that reciprocal opening of ACP markets to EU exporters will expose them to unfair competition in domestic and regional markets and endanger fragile regional integration processes. Some argue that the ACP should not be obliged to offer any degree of market opening to the EU.

20. The Government’s view is that in the longer-term, prospects for economic growth and development in ACP countries will be boosted if they open their own markets. Poor consumers in ACP countries stand to benefit from cheaper imports, from other ACP countries as well as from the EU, as do ACP businesses. These gains will not accrue if ACP states fail to liberalise their economies. However, neither will they materialise if liberalisation is implemented without careful consideration of the poverty and social impact of trade reforms. Social safety nets and transitional assistance will be essential to cushion the most vulnerable and to assist ACP producers exploit new trading opportunities.

21. In the framework for the current round of WTO negotiations agreed in July, LDCs, unlike all other WTO members, will not be required to make further commitments to reduce their tariff levels. However, LDCs that join non-LDCs in a regional ACP grouping to negotiate an RTA/EPA with the EU will be required to offer a degree of reciprocity to both the EU and other developing countries within its regional grouping.

22. The coverage and pace of reciprocal market opening between the EU and ACP under EPAs must comply with the WTO rules in this area. These rules are contained in Article XXIV of the GATT and the 1994 Understanding on the Interpretation of Article XXIV of GATT. This includes the coverage of an RTA (ie what percentage of trade should be covered) and the period over which trade should be liberalised. However, the actual wording in the rules on both these issues is vague. With respect to coverage, they state that RTAs should cover “substantially all trade”. With respect to timescale, they state that reciprocal market opening within an RTA should take place “within a reasonable amount of time”. The 1994 Understanding states, however, that the reasonable length of time for moving to a free trade area or a customs union should exceed 10 years only in exceptional cases. Where the parties to an agreement believe that 10 years would be insufficient they are required to provide a full explanation to the WTO Council for Trade in Goods of the need for a longer period. The rules do not preclude asymmetrical reciprocity, that is, allowing developing countries more time to liberalise and include less of their trade in the RTA than the developed country members.

23. As the Commission has acknowledged, the need for a flexible approach to reciprocity in the design of EPAs will be critical to their ability to complement ACP countries' national poverty reduction plans. Further analysis will need to be done to look at which sectors, and on what timescale, reciprocal market opening by the ACP would best meet their development needs, whilst remaining compatible with WTO rules.

24. The ACP have submitted a proposal to reform these particular WTO rules to clarify the terms of asymmetrical reciprocity between developed and developing country members of an RTA. The Commission's view is that the rules already provide sufficient flexibility for RTAs between developing and developed countries to take account of the special needs of the latter. The ACP proposal does indicate that the ACP concern is not necessarily the principle of reciprocity *per se*, but the nature of that reciprocity.

25. A further element of "asymmetric" liberalisation is that ACP farmers should be protected from import surges of EU agricultural products, which threaten their livelihoods and domestic industries (whether unfairly subsidised or not). WTO members have agreed to develop a Special Safeguard Mechanism (SSM) that developing countries could use for this form of protection. This mechanism is being developed through the current round of WTO negotiations and DFID has commissioned the International Centre for Trade Sustainable and Development (ICTSD) to assist in the formulation of this concept.

"NEW ISSUES" IN EPAS

26. Some suspect the EU of using the EPA negotiations to pursue through the "back door" the Singapore Issues (including investment and competition) that will not now be part of the single undertaking in the current WTO negotiations (apart from trade facilitation). The European Commission has stated that regional trading agreements are "necessarily WTO plus", as integration at the regional level is both broader and deeper than at the multilateral level.

27. To ensure that EPAs are true "tools for development", the EU must therefore protect the right of ACP countries to regulate their economies and support, not supersede, regional progress on these issues. Building on what is happening within ACP regions, further detailed analysis is needed into how these issues might best be incorporated into EPAs to help ACP states benefit from both regional and multilateral trade and investment flows. Given the sensitivity of investment and competition within the WTO, the ACP will expect the EU to also understand these sensitivities in the context of how these issues may be included within an EPA.

28. Inclusion of these issues in an EPA does present potential gains for the ACP; and a predictable and transparent set of rules governing investment will inspire greater confidence in potential investors. The UK already has bilateral Investment Promotion and Protection Agreements (IPPAs) with 29 of the 77 ACP countries. Research is now being undertaken, for example by the Commonwealth Secretariat, to consider how investment provisions may be most beneficially incorporated into an EPA. Negotiations on trade facilitation measures within EPAs will need to complement those within the WTO. This entails an explicit link being made between the implementation capacities of ACP countries and the progress of the negotiations in this area. It also means that the EU will need to support trade facilitation through well co-ordinated support for technical assistance and capacity building.

RULES OF ORIGIN

29. The Government believes that simplification and improvement of rules of origin are essential to enable all developing countries to take advantage of the preferences offered to them. Restrictive and complicated rules of origin (ROOs) not only reduce the value to developing countries of current preference schemes, but also inhibit their export competitiveness. LDCs do not take full advantage of quota and tariff free access to the EU market under EBA (Everything But Arms), both because of supply-side constraints and restrictive ROOs. EBA ROOs are the same as those of the Generalised System of Preferences (GSP) that apply to other developing countries.

30. Under these ROOs, LDC producers cannot easily use inputs from any other country if they want to claim duty free access to the EU market. Lomé/Cotonou rules are slightly more favorable in that they allow the ACP to source inputs from other ACP suppliers, but far less so from non-ACP developing countries. As a result of the restrictive ROOs that apply to EBA, GSP and Cotonou, ACP clothes manufacturers cannot buy the best-priced cotton from other developing countries in South or East Asia. This either increases the cost of their exports or stops exports altogether. An example of the development gains of more flexible ROOs is the US AGOA (African Growth and Opportunity Act) preference scheme. Under a derogation from normal rules, these ROOs allow eligible African countries to buy from any developing country. In the case of Lesotho, this has attracted stable foreign investment in the garments industry. Exports have trebled in three years, making the industry the largest employer in the country, especially of women workers.

31. Restrictive EBA ROOs should not be used as a stick to compel LDCs to join EPAs. To deliver on the commitments made at the Evian Summit, the EU should ensure that ROOs “do not inadvertently preclude eligible developing countries from taking advantage of preference programmes”. For this to happen, ROOs must be sufficiently flexible to enable ACP countries to source inputs from the most competitive source, which may be outside the EPA region. This is necessary to facilitate the development of globally competitive industries in the ACP. The Commission is currently consulting on amendments to preferential rules of origin and the Government has submitted proposals for their simplification and improvement.

EU/ACP REGIONAL AND SUB-REGIONAL NEGOTIATIONS

32. EPA negotiations were launched in September 2002 with an agreement to sequence the negotiations in two phases. Phase I consisted of negotiations at the all ACP level addressing “horizontal” non-country specific issues. Phase II will consist of region specific negotiations. See Annex I for details of the self-selected ACP regions. Some in the ACP wanted the outcome of Phase I to be made into a binding commitment before moving on to Phase II, but this was not agreed to by the EC. The European Commission did not see any added value in this approach given that EPAs are part of the binding commitment of the Cotonou Agreement itself. Discussions at all-ACP level are continuing in parallel with Phase II through the all-ACP-EC Technical Monitoring Committee. Dispute settlement and the “non-execution clause” have already been discussed. Future discussions will focus on rules of origin, trade facilitation and sanitary and phytosanitary standards.

33. Phase II negotiations between the EC and six regional and sub-regional groupings were originally expected to start in September 2003, but the last set of negotiations were launched in the second half of 2004. The process of defining their negotiating groups has been long and complicated for ACP states, especially in Southern Africa. This is because of their overlapping memberships of different regional groups (SADC, COMESA) and SACU (South Africa Customs Union).³ In other cases, the self-designated negotiating groups have broadly followed the lines of existing regional groups, such as CARICOM (Caribbean) and ECOWAS (West Africa). The reality of EPAs negotiations has forced the pace of rationalisation of regional groups—when choices now have real economic consequences.

34. The initial phase of all six regional negotiations is focusing on developing *regional* markets. This reflects the Cotonou commitment to foster regional economic integration within the ACP. The EPA negotiations need to help the process forward, but at a pace acceptable to the different ACP members. If EPAs are to help promote regional economic integration on a sustainable basis, the EU needs to recognise that a one size fits all European model will not work in very different regional and sub-regional contexts. Substantive negotiations on the content of the trade agreements will begin early in the New Year.

CHALLENGES FOR THE ACP

35. Besides the complexities of liberalising trade within emerging regional economic groupings, EPAs pose a number of challenges to the ACP. Major challenges face the ACP on substantive trade adjustment issues. They include finding alternative sources of revenue as tariffs come down; introducing reforms (eg regulating domestic service industries in a way that best suits their domestic economies); avoiding trade diversion, as EU imports become cheaper, and addressing underlying supply-side constraints and the need to diversify their economies.

36. ACP negotiating capacity will be stretched thin with simultaneous negotiations in the WTO, and regional trade agreement negotiations with other trade partners (such as the US) as well as within their regional groupings. Progress in the Doha Round will have far-reaching implications on the shape of EPAs. In some areas (eg realising the EU’s commitment to eliminate agricultural export subsidies), progress in the EPA negotiations will follow progress in the WTO. The negotiating process will need to be an organic one that builds on the phased approach of the regional road maps, and responds to developments in the WTO. In article 39 of the Cotonou Agreement, the EU and ACP agreed “to cooperate closely in identifying and furthering their common interests in international economic and trade cooperation in particular in the WTO”. The EU should continue to consult and work with ACP countries to further their integration into the world trading system and to ensure that a successful outcome to the current Doha Round is achieved.

³ Malawi, Zambia and Zimbabwe have opted to negotiate as part of a 16-strong COMESA group; seven are left in SADC; with 16 in the West African; 15 in the Caribbean and 14 in Pacific regional groups.

 SUPPORT FOR TRADE ADJUSTMENT

37. It is clear that some ACP members, that are more heavily dependent on EU preferences in specific sectors, will need additional, targeted assistance to help the adjustment process. The challenge for the international community, as set out in the Government White Paper on Trade and Investment, is to ensure that the transitional assistance, which will be needed by these countries, is guaranteed, credible and additional, as well as being delivered in a timely fashion.

38. With respect to reform of the Sugar Regime, we await detailed Commission proposals, but it is expected that the EU will offer assistance to those ACP countries most affected through both aid and trade provisions. EPAs are the most likely vehicle for the latter. Different sources of finance for this transitional assistance need to be considered, to make sure that we meet the White Paper challenge.

39. The European Commission has rejected the ACP request for additional financial resources to accompany EPAs. However, joint EC-ACP Regional Preparatory Task Forces (RPTFs) have been established to ensure that the EU's development assistance supports the process of change in implementing EPAs. This will include considering both the priority given to trade in EDF (European Development Fund) allocations, as well as in the development assistance of EU Member States and other donors. DFID will be urging other EU donors to work together to coordinate their assistance to the ACP as an integral part of their engagement on EPA issues.

40. The EU has provided €22.8 million to help strengthen ACP capacity to negotiate effectively. This has been used to fund over 50 impact studies, confidential to the ACP, to help inform their negotiating positions. In addition, the EC is funding Sustainability Impact Assessments (SIAs), which aim to help both the EU and ACP to frame EPAs in the most developmentally and environmentally beneficial way. The UK has expressed concerns to the EC that there is a risk that the approach to the SIAs and their timing may limit their usefulness in informing the negotiations. DFID has provided some input to the methodology and stands ready to contribute expertise, based on its experience of Poverty and Social Impact Assessments (PSIAs). The ACP will also have access to the EC's relatively new €50 million trade-related capacity building facility, "Trade.Com" for EPA-related initiatives.

UK Support to the ACP

41. DFID is providing support to strengthen the trade policymaking process in ACP countries through a number of bilateral, regional and multilateral programmes. These include £4 million plus to assist sub-Saharan African countries to integrate trade issues into their poverty reduction strategies and to develop proactive negotiating positions based on their strategic interests; £1.6 million to support the Caribbean trade Regional Negotiating Machinery; and some £270,000 to EPA-specific capacity building support through the European Centre for Development Policy Management.

42. More generally, DFID is supporting a new research programme on the Global Trade and Financial Architecture aimed at generating new ideas on how best to address the adjustment needs of developing countries to trade liberalisation. This includes identifying funding mechanisms for trade adjustment and ways of translating these ideas into meaningful Special and Differential Treatment provisions within specific WTO agreements. The work is co-ordinated by a steering group chaired by former Mexican President, Ernesto Zedillo and its membership includes the South African chair of the WTO Development Committee.

43. DTI and DFID are working closely together to ensure that EPAs deliver their developmental potential. DFID is stepping up its engagement on EPAs with the ACP, the European Commission, other EU Member States, and NGOs in the North and South. DTI and DFID we are working closely with EC officials and have participated in various regional meetings to better understand ACP members' views and the support they require.

44. DFID, in close collaboration with DTI and NGOs is currently developing a programme of research on EPAs. Our objective is to contribute to EU and ACP thinking on how to achieve the best development outcome from the negotiations. Analysis will be conducted into priority ACP concerns, such as reciprocity, the inclusion of investment and competition and transitional assistance. In line with the Government's commitment made before the Select Committee on International Development in 1998 on the renegotiation of the Lomé Convention, we will also undertake technical research into possible alternatives. This analysis will be shared with ACP members, the Commission and EU partners and could contribute to more in-depth examination of the alternatives in 2006, should any ACP country opt out of an EPA.

45. DFID has recently commissioned work to develop a general framework for analysis of potential regional trading agreements and will consider a Caribbean EPA as one of its case studies. DFID is also considering where we might best complement existing EPA-related technical assistance, in response to ACP demand. Our aim is to invest resources in providing timely support to ACP members as they develop negotiating strategies consistent with their regional road maps.

DETAILS OF ACP EPA NEGOTIATING GROUPS

<i>ACP Regional Grouping:</i>	<i>West Africa CEDEAO + Mauritania (ECOWAS)</i>	<i>Central Africa CEMAC + STP (CEMAC)</i>	<i>East South Africa (ESA) (COMESA minus)</i>	<i>Southern Africa (SADC minus)</i>	<i>Caribbean (CARIFORUM)</i>	<i>Pacific (PIF)</i>
<i>Negotiations Began:</i>	<i>October 2003</i>	<i>October 2003</i>	<i>February 2004</i>	<i>July 2004</i>	<i>April 2004</i>	<i>September 2004</i>
1	Benin	Cameroon	Burundi	Angola	Antigua	Cook Is
2	Burkina Faso	Central Africa	Comoros	Botswana	Bahamas	Fed Micron
3	Cape Verde	Chad	Congo (Dem Rep)	Lesotho	Barbados	Fiji
4	Gambia	Congo	Djibouti	Mozambique	Belize	Kiribati
5	Ghana	Equat Guinea	Eritrea	Namibia	Dominica	Marshall Is
6	Guinea	Gabon	Ethiopia	Swaziland	Dominican Rep	Nauru
7	Guinea Biss	S Tome Princ (STP)	Kenya	Tanzania	Grenada	Niue
8	Ivory Coast		Malawi		Guyana	Palau
9	Liberia		Mauritius		Haiti	PNG
10	Mali		Madagascar		Jamaica	Samoa
11	Mauritania		Rwanda		St Lucia	Solomon Is
12	Niger		Seychelles		St Vincent	Tonga
13	Nigeria		Sudan		St Kitts & Nevis	Tuvalu
14	Senegal		Uganda		Suriname	Vanuatu
15	Sierra Leone		Zambia		Trinidad & Tobago	
16	Togo		Zimbabwe			

Supplementary memorandum submitted by the Department of Trade and Industry (following the evidence session of Tuesday 30 November 2004)

COTTON

The Committee asked when the African cotton producers might see an end to cotton subsidies which EU and US cotton farmers benefit from. The main driver in this respect will be progress made in the context of the WTO's Doha Development Agenda, now thought likely to conclude in early 2007. This contains explicit commitments on subsidy reductions, including a commitment to eliminate all forms of export subsidy by a date to be negotiated. Meanwhile, there have been other developments affecting cotton subsidies in both the EU and the US.

EU cotton production is small in world terms, around 2% of world total. EU domestic subsidy payments to cotton producers represent a similar percentage of the Common Agricultural Policy budget; no export subsidies are payable. Nevertheless, African producers maintain that EU subsidies have a disproportionately high impact as EU cotton competes directly with African production. With this in mind, and under strong pressure from the UK and certain other member states, the EU agreed last April to a reform of its cotton regime, to take effect from 1 January 2006. The reform provides for decoupling of subsidy from production (in line with the 2003 CAP reform agreement) at a rate of 65%. This means that in future, 65% of aid will be Green box compatible under WTO rules ie non or, at most, minimally trade-distorting. The remaining 35% will be subject to production constraints, thus falling within the WTO Blue box (less trade-distorting). Part of the reform included a commitment by the EU Commission to report on the impact of EU subsidies on African cotton production before the end of 2009.

US cotton production is much more substantial. The US is the world's second largest producer and the main exporter onto world markets. Cotton production benefits from a complex set of support measures which have been the subject of a recent WTO Dispute Panel hearing, brought by Brazil. The Panel found against US on a number of separate counts; the US has formally appealed these findings. Any implications for the future of US cotton support must now await the outcome of that appeal, expected in early March 2005.

SUPPLY SIDE CAPACITY

You suggest that supply side capacity might be a unique problem for the uptake of EBA. This is not the case. It affects developing countries' ability to trade generally, whether through preference schemes or as a result of greater market access following the reduction of tariffs that is gained through regional or

multilateral trade agreements. The supply-side response can be limited by a number of factors, as set out in the Government's Trade and Investment White Paper (see p 84)⁴. These factors include:

- good macroeconomic policies;
- a functioning domestic market;
- reliable infrastructure;
- the skills base of the population;
- the governance and regulatory environment (affecting, for example, the ability to attract foreign investment); and
- capacity in trade-related areas, such as effective customs procedures.

We believe that there are two additional reasons why uptake of EBA is low:

1. rules of origin are more restrictive than under the Cotonou Agreement. This means Least Developed Countries have less choice over from where they can source inputs and still benefit from EBA preferences.
2. ACP countries and businesses were used to trading using the Cotonou Preferences and there was insufficient incentive to learn how to operate under a different preference scheme.

The OECD published a study on the "Assessment of utilisation and motives for under-utilisation of preferences in selected LDCs" in June 2004 that may be of interest to the Committee.

Rules of origin

I enclose a copy of the Government's response as requested.⁵ Please note that the Commission has not, as yet, announced its response to this consultation process.

Amanda Brooks
Director, Trade Negotiations and Development

Joint memorandum submitted by several Non-Governmental Organisations (NGOs)

1. SUMMARY

1.1 ActionAid,⁶ ACTSA,⁷ CAFOD,⁸ Christian Aid,⁹ One World Action,¹⁰ Oxfam GB,¹¹ and Traidcraft¹² welcome the opportunity to submit evidence to the International Development Select Committee's evidence hearing on the European Union's trade agreements with the African, Caribbean and Pacific (ACP) states. Together with our partner organisations in ACP countries, we have been tracking the progress of the Cotonou Agreement and Economic Partnership Agreements (EPAs) for several years.

1.2 We have serious concerns about EPAs and EPA negotiations, and consider them to be developmentally flawed in both content and process. We believe that, in their current form, EPAs will undermine rather than deliver their stated objective of development and poverty reduction. For this reason we have joined with counterparts in the ACP in calling to pause current negotiations until significant concerns are addressed.

1.3 Our serious concerns relate to several critical aspects of EPAs.

⁴ *DTI Trade and Investments White Paper 2004: making globalisation a force for good.*

⁵ Commission Green Paper on the Future of Rules of Origin in Preferential Trade Agreements: UK Response. Not printed. Copy placed in the library.

⁶ ActionAid International UK is a unique partnership of people who are fighting for a better world—a world without poverty.

⁷ Action for Southern Africa (ACTSA) is the successor to the Anti-Apartheid Movement and campaigns in support of peace, democracy and development in Southern Africa.

⁸ CAFOD is the official development agency of the Catholic Church in England and Wales, working in partnership with over 1,000 programmes worldwide.

⁹ Christian Aid links directly, through local organisations, with people living in poverty in more than 60 countries worldwide, working where the need is greatest regardless of race or religion. It supports programmes with the aim of strengthening the poor towards self-sufficiency. Christian Aid is the official relief and development agency of 40 British and Irish church denominations.

¹⁰ One World Action works with partners in Africa, Asia and Central America to create the power and opportunity for the poorest communities to transform their own lives. Founded in 1989, it now works in more than 20 countries. Trade justice is a core area of work, and it has a major project in Southern Africa building civil society capacity to engage in current trade negotiations between African countries and the EU.

¹¹ Oxfam is a development, relief and campaigning organisation dedicated to finding lasting solutions to poverty and suffering around the world. Oxfam GB is a member of Oxfam International, a Confederation of 12 development agencies that work in 120 countries throughout the developing world.

¹² Traidcraft is the UK's leading fair trade organisation. It works to break down the barriers which prevent most producers from accessing markets, by working with in-country partners to develop producers' business skills and capacity and to create the environment needed to help poor producers engage in sustainable trade.

1.4 We believe that the demand in EPAs for reciprocal market opening, and the aggressive liberalization timetable put forward within EPA negotiations, will lead to significant detrimental impacts on ACP agricultural and industrial producers, ACP economies and poverty levels in ACP countries.

1.5 We are concerned by the pursuit of offensive market interests by the European Union in EPA negotiations, most notably of the “Singapore issues”, strongly opposed by ACP countries at the multilateral level. We believe that these items offer little proven benefit to ACP countries but are accompanied by high implementation costs and a growing body of evidence that suggests they would be against ACP countries’ development interests.

1.6 We are concerned by the extent of revenue loss by ACP governments from tariff reductions and the level of adjustment costs for ACP countries as a likely consequence of EPAs. We are concerned that current levels of EU aid available to ACP countries through the Cotonou Agreement will inadequately address these financial burdens.

1.7 We are deeply concerned that EPAs will undermine regional integration amongst ACP countries. EPAs present serious obstacles to the encouragement of regional integration within Africa, both in splitting apart existing regional processes and in creating likely divisions between Least Developed Country (LDC) ACP countries and non-LDC ACP countries. We do not consider that either the European Commission or the UK Government has adequately addressed these concerns.

1.8 Finally we are seriously concerned by the EPA negotiating process. This includes the worrying behaviour of the European Commission in negotiations so far, a lack of member state scrutiny, and a weak evidence base on which the development impact of EPAs is judged and incorporated into negotiation outcomes.

1.9 Given these substantial concerns, this submission calls upon the UK Government to put greater emphasis on the need for development concerns to be at the heart of the EPA negotiations. In particular, the UK Government should direct much greater levels of technical and political capacity into EU-ACP trade negotiations. Significantly increased levels of member state scrutiny are required over the negotiating position of the European Commission. We call upon the UK Government to work to ensure that the European Union drops both its demands for offensive issues and its demand for reciprocity in EPA negotiations.

1.10 This submission further calls upon the UK Government to live up to its commitment, made to the International Development Select Committee in 1998 and contained in the Cotonou Agreement, to provide alternative forms of non reciprocal market access to the European Union to those ACP countries who do not want to sign up to a free trade agreement.

1.11 Feasible alternatives to EPAs exist, and may provide a more suitable development alternative to those ACP countries that wish to make this choice. We find that the failure to provide these alternatives is the result of lack of political will on the part of the UK Government and the European Commission. We call upon the UK Government to start work on alternatives as a matter of urgency, working with ACP countries and in parallel to the EPA negotiating process to deliver these well before the end of the EPA negotiating process.

2. WHAT OPTIONS ARE AVAILABLE FOR ACP STATES UNDER THE COTONOU AGREEMENT? ARE REGIONAL ECONOMIC PARTNERSHIP AGREEMENTS (EPAs) THE MOST SUITABLE DEVELOPMENTAL TOOL FOR ALL ACP STATES? WHAT ARE THE ALTERNATIVES?

Concerns regarding Economic Partnership Agreements as Development Tools

2.1 ActionAid, ACTSA, CAFOD, Christian Aid, One World Action, Oxfam GB and Traidcraft welcome the opportunity to submit evidence to the International Development Select Committee’s one off evidence hearing on the European Union’s trade agreements with the African, Caribbean and Pacific states. Together with our partner organisations in ACP countries, we have been tracking the progress of the Cotonou Agreement and EPAs for several years.

2.2 We have serious concerns about the EPA negotiations, and have found them to be developmentally flawed in both content and process. In the Preamble to the European Commission’s mandate for negotiating EPAs, the Council of the European Union sets the tone by which we believe EPAs should be judged. It refers, as a priority, to:

“The commitment of the parties to centre their partnership on the objective of reducing and eventually eradicating, poverty consistent with the objectives of sustainable development and the gradual integration of the ACP countries into the world economy.”¹³

2.3 Despite this, it is our belief that EPAs, as currently envisaged, are highly likely to be damaging to sustainable development in ACP countries and their attempts to reduce poverty. There are five fundamental problems that should be addressed if EPAs are to become “instruments for development”.

¹³ Recommendation authorising the Commission to negotiate Economic Partnership Agreements with the ACP countries and regions, 9798/02 ACP 84 WTO 59 + ADD 1.

2.4 (I) The development case for reciprocity is not proven: The principal problem with EPAs is that they will involve reciprocal market opening, marking a fundamental shift in ACP-EU trade relations. The EU is pushing for ACP countries (which include some of the world's poorest) to open "substantially all trade over the course of a transitional period",¹⁴ which is being interpreted by the European Commission as being "the elimination of customs duties"¹⁵ on more than 90% of ACP imports of EU goods and services within 10 years. While the precise timeframe is yet to be negotiated, even the most liberal EC interpretation is setting a limit of full reciprocity within 25 years. We believe that these timings are based not on sound development understanding, nor on the needs or interests of ACP poverty reduction strategies, but on the insistence of the European Commission on standardising its preferences regime, and on outdated free-market thinking.

2.5 ACP countries—including LDCs (see section 4)—are being asked to open their borders to European goods, with little to gain from the EU in return. Under EPAs, ACP countries would face a dramatic reduction in their ability to protect themselves and their producers from cheap, often subsidised EU goods flooding their markets and putting local farmers and small-scale manufacturers out of business. While African markets are not, in general, a major destination for EU agricultural and value-added food product exports, since 1993 there has been an alarming increase in the exports of simple value-added food products such as cereal, poultry, prepared or preserved vegetables or fruits, dairy and sugar products, particularly to West African markets such as Senegal, Burkina Faso, Mali and Ghana, but also to other African countries such as the DRC, Cameroon, Tanzania, and Kenya. The increase has been most pronounced in cereal products, and has been mainly a result of Common Agricultural Policy (CAP) reform. To date the shift from price support to direct aid to farmers in the EU cereals sector has resulted in the expansion of EU cereals production, despite a reduction in prices of more than 50% on average. It has also prompted an expansion of cereal-based food product exports to ACP countries. This has seen the importance of the ACP market rise from 13% to 21% of total EU exports for products of the "milling industry", and from 5% to 7% for "preparations of cereals".¹⁶

2.6 (II) The aggressive liberalization timetable could have a devastating impact on poverty and on vulnerable groups in ACP countries. Potentially this could lead to:

- *Company closures and job losses.* As European goods begin to enter ACP countries with little to no tariffs, many local businesses will close in the face of increased competition. This would be particularly damaging in the agricultural sector: for example, unfair competition from European goods still heavily supported by the EU under the CAP will have a serious impact on Kenya's dairy and cereals sectors, and the poultry sector in Ghana.

2.7 *The undermining of ACP industrial development.* A key development strategy in most ACP countries is to encourage small enterprises to move up the value chain and into new industries such as manufacturing or processing. Indeed this is an area which already receives donor support from EU member states. Under EPAs, European manufactured goods will be entering African countries without paying any trade taxes, making it much harder for local industry to compete. The EU's own Sustainability Impact Assessment (SIA) of EPAs identifies this as a serious problem:

"While liberalisation might encourage this [the ability of West Africans to buy products at affordable prices], it might also accelerate the collapse of modern (sic) West African manufacturing sector."

and:

*"The removing of protective tariffs will accelerate the decline of modern (sic) manufacturing sector . . ."*¹⁷

Other sectors particularly at risk include the growing Ghanaian plastics and food processing industries, and the textiles and garments industries in East Africa.

2.8 *Loss of vital government revenue.* Liberalisation will drastically cut fiscal revenues and consequently limit ACP governments' capacity for social expenditure. For example, between 25–30% of all Namibian government revenue was derived from this type of trade tax between 1990–96. Current estimates are that Kenyan revenues will decrease by 17%. This seems particularly illogical as a poverty reduction strategy given the emphasis on good governance and sound financial management placed on ACP countries by EU donors.

¹⁴ *Ibid.*

¹⁵ *Ibid.*

¹⁶ Christian Aid EPA Research Update, *The Interests of EU Agri-Business in Better Access to African Markets*, October 2004.

¹⁷ Sustainability Impact Assessments (SIA) of Trade Negotiations of the EU-ACP Economic Partnership Agreements, Mid Term Report Working Draft, 1 October 2003 <http://www.sia-gcc.org/acp/download/summarized—mid-term—report—final—doc—light.pdf>, accessed Autumn 2003.

2.9 Although the EU does acknowledge that liberalisation will have some social consequences in the ACP, the Commission's EPA negotiating mandate does not allow the necessary policy scope for an alternative approach, even though this option is provided for in the Cotonou Agreement. The furthest the EC mandate goes on this is still, we believe, insufficient:

"Where serious difficulties occur as a result of trade liberalisation, the ACP countries may, in consultation with the Community, temporarily suspend the application of the liberalisation schedule and, where necessary, re-modulate the rate of progress towards the ultimate establishment of the free trade area, in full conformity with the provisions of the WTO".¹⁸

2.10 (III) **The ACP is still faced with negotiations on "Singapore issues"**. Three of the highly controversial "Singapore issues" (investment, competition and transparency in public procurement) are included in the EU negotiating agenda of EPAs. We see no justification in including them in bilateral agreements when they have been so strongly resisted multilaterally. Indeed, in some areas the EU is pushing for EPAs to go much further on these issues than was envisaged at the WTO. For example at the WTO the EU was calling for transparency in public procurement. In EPAs the EU is calling for liberalisation of public procurement on the basis of non-discrimination.

2.11 (IV) **EPAs are already undermining regional integration**. It was the original stated intention of the Cotonou Agreement that EPAs should contribute to the process of regional integration between ACP countries. The progress of EPA negotiations thus far indicates that the opposite is happening. EPAs in particular put the poorest LDC ACP countries in an impossible dilemma: should they continue with their non-reciprocal duty-free, quota-free access into the European market and leave their regional grouping, or should they negotiate alongside their regional partners and face reciprocal market opening? While ACP LDCs have nothing to gain from EPAs, their non-LDC neighbours have a great deal to lose.

2.12 The East African Community (EAC) is a case in point. The EAC includes Kenya, Uganda and Tanzania, which have long been committed to closer economic collaboration and are in the process of establishing a customs union and a joint currency, having already established an East African Parliament. As LDCs, both Uganda and Tanzania already have duty-free and quota-free access into the EU market under the Everything But Arms initiative. Consequently there is nothing for them to gain in joining an EPA. Kenya's position, as the only non-LDC in the East African Community, is now particularly isolated.

2.13 Largely as a result of the fear of losing existing preferences, ACP regions have begun the process of negotiating EPAs with the EU. However, the East African example illustrates how little EPAs have supported regional integration. After prolonged discussions within SADC and COMESA, the resulting "regional grouping" of the Eastern and Southern African countries (ESA) relates little to previous African progress on regional co-operation. Tanzania, for example, chose not to negotiate an EPA with the EU as a member of SADC. There is also much concern about the quality of information flow between the COMESA secretariat, which is negotiating the ESA EPA, and the group's member governments and civil society organisations. The fact that the COMESA secretariat itself receives EU funding has not helped the process of trust. EPA negotiations are adding to the already difficult task of regional collaboration within existing regional groupings in Africa, and may therefore contribute to the derailing of existing processes of regional integration.

2.14 (V) **The EPA negotiating process is seriously flawed**. The EPA negotiations have been characterised by a lack of transparency and a poor understanding of development. The EU is forcing the pace of negotiations, at a level which is too fast for many ACP countries, given the commitments already being sought at the WTO. For example, the ACP group was keen to negotiate key decisions as a single bloc in Phase I, before discussing regional issues. Despite the logistical and strategic sense in this, the EU refused to begin discussions until the ACP had broken down into smaller groups.

2.15 Member state scrutiny of the European Commission's approach to EPAs has been insufficient. In the UK, HMG engagement with NGOs is now increasing, but much more effective engagement by HMG with the EC is necessary. We feel strongly that it is the responsibility of member states to hold the European institutions to account. In oral evidence to the International Development Committee on Thursday 16 October 2003, the Secretary of State for International Development was questioned on bilateral negotiations. He answered thus:

*"You mentioned the EPAs . . . the Commission has made it very clear that these are simply a development tool, and it is important that they are held to that, and they have to be negotiated . . ."*¹⁹

While we welcome this statement, we are concerned that EPA negotiations are progressing fast and the need for further and better scrutiny, from a development perspective, is now very clear.

2.16 We are also concerned at the poor evidence base of the impact that EPAs will have on poverty in the ACP countries. The EU itself is conducting its own SIA of EPAs, but we feel that this process is marred by inadequate terms of reference and poor consultation with civil society in the EU or the ACP. Moreover, the SIA is not linked in any meaningful way to the negotiating timetable, rendering it potentially meaningless. This needs to be dealt with as a matter of urgency.

¹⁸ "Recommendation authorising the Commission to negotiate Economic Partnership Agreements with the ACP countries and regions", 9798/02 ACP 84 WTO 59 + ADD 1.

¹⁹ Question 17, <http://www.publications.parliament.uk/pa/cm200203/cmselect/cmintdev/uc1183-i/uc118302.htm>

Alternatives Available to ACP States

2.17 The UK Government has strongly committed itself to offering ACP countries (and in particularly non-LDC ACP countries) an alternative to EPAs.

This commitment was underlined in the strongest terms in the Government's response to the International Development Committee's report on the renegotiation of the Lomé Convention. The Government made the following commitments to provide alternatives to ACP countries to the IDC: ". . . *the Government certainly agrees that they [EPAs] are not a universal solution. . . . That is why we have worked to ensure that attractive alternatives will be available, both for LDC and non-LDC countries.*"

And ". . . *there should be a reasonable alternatives [to free trade areas] available to Lomé partners, without reduction in their market access to the EU.*"²⁰

And "*The Government shares some of these doubts about the FTA option—hence our determination to ensure that it should not be the only option.*"

And "*Thanks to the agreement the Government obtained in the Council . . . non-LDC ACPs unable to join FTAs should be offered a new trade framework equivalent to their existing situation under the Lomé Convention.*"

As well as "*The Government agrees that it would be wrong to impose unfavourable terms on ACPs. Given the alternatives which are to be made available, the risk of this is much reduced.*"

2.18 The UK also took the lead on this issue during the Cotonou negotiating process, fighting for, and winning, the commitment in the Cotonou Agreement that the EU will: "*examine all alternative possibilities, in order to provide . . . [ACP] countries with a new framework for trade which is equivalent to their existing situation and in conformity with WTO rules.*"²¹

2.19 However, since then, the Government appears to have put minimal effort into realising these commitments. The only official document on EPA alternatives to date has been a rather negative, one-and-a-half page "non-paper" from the DTI.²² Having been so instrumental in securing these commitments in the first instance, we would strongly urge the UK Government to continue to show the same level of political will on EPA alternatives.

2.20 This submission argues that there are a range of feasible alternatives to EPAs and that there is no reason why the UK Government should not take action to deliver these alternatives, both in their own trade work and through engagement with the European Commission, in order to fulfil the commitments made through the Cotonou Agreement and to the International Development Select Committee. As Institute of Development Studies economist Christopher Stevens says: ". . . *alternatives [to EPAs] do exist . . . they are developmentally more coherent, and . . . they could provide a better basis for achieving a compromise between ACP and non-ACP developing countries in the WTO.*"²³

2.21 We consider it vital that ACP countries be strongly involved in the shaping of EPA alternatives from the outset and that they be given time to engage with the various options during the EPA negotiating process, rather than being presented with an EPA as a finished product at the last possible moment (albeit with a poor alternative also offered) at the end of 2007. That means starting work in consultation with ACP countries as soon as possible.

2.22 Two alternatives will need to be offered, one for LDC ACPs, and one for non-LDC ACPs. We address LDC alternatives under section 4 of this submission, for non-LDC ACP countries we consider the following as a potential, but not exhaustive, number of alternatives.

2.23 **Generalised System of Preferences (GSP).** Currently the GSP, the system by which the EU offers unilateral trade preferences to other countries, appears to be the most viable non-LDC alternative to EPAs. Significantly, one of its prime purposes is to emphasise sustainable economic and social development.²⁴ However, as noted below, significant changes would be needed if it were to achieve the poverty reduction focus specified in Cotonou.

2.24 The GSP is non-reciprocal and WTO-compliant (although a reformed GSP could be subject to a dispute settlement²⁵). However, the terms are negotiated unilaterally in a non-transparent process, meaning it is extremely difficult for ACP countries to influence its form. It is also non-contractual, which is concerning, as it would offer insufficient certainty to ACP countries.²⁶ It may be possible to bind it at the WTO, however,²⁷ and despite these limitations, the GSP, with suitable modifications, could be a better option for ACP countries.

²⁰ This and the next four quotations come from the UK Government's response to the International Development Committee's report on the renegotiation of the Lomé Convention <http://www.publications.parliament.uk/pa/cm199798/cmselect/cmintdev/1068/106804.htm>, accessed on 8 October 2004.

²¹ Cotonou Agreement, Article 37.6.

²² *Alternative to EPAs non-paper*, EWT, DTI, July 2004.

²³ Stevens, C and Kennan, J (2000) *Post-Lomé WTO-Compatible Trading Arrangements*, London: Commonwealth Secretariat.

²⁴ <http://europa.eu.int/comm/trade/issues/global/gsp/gspguide.htm>, accessed on 8 October 2004.

²⁵ Stevens, C and Kennan, J, *op cit*.

²⁶ Stevens, C and Kennan, J, *op cit*.

²⁷ Stevens, C and Kennan, J, *op cit*.

2.25 A new GSP is currently being negotiated, in advance of the expiry of the current agreement on 31 December 2005. The review is likely to be completed by the Commission in the first half of 2005, with a year-three review scheduled for 2007, although the GSP can also be amended at any time in the interim period.

2.26 In the past, the UK Government has sought an assurance that particular attention would be paid to the interests of non-LDC ACPs, not in a position to sign an EPA, during the review of the Community's GSP in 2004.²⁸ However, the current Commission proposal for a revised GSP still falls short of what would be required if the GSP were to be a serious alternative to EPAs.

2.27 Rules of Origin (RoOs) as applied to the GSP are too onerous, and are more restrictive than the RoOs under Lomé. Regional cumulation, cross regional cumulation, and cumulation of raw material, are extremely important to development as many ACP countries lack access to raw materials or simple processed inputs from within their own borders. The UK government has already admitted—in a wider context—that there is a clear need to reform the rules of origin.²⁹ This reform should focus on those areas and products that matter most to ACP countries, such as a single-stage processing requirement on textiles and improvement of agricultural RoOs. An EPA-alternative GSP would need to offer full cumulation.

2.28 The GSP's graduation mechanism would also need to be reformed as the current system, as well as the proposed one, mean that countries risk graduating from preferences before they are genuinely competitive in that sector. In particular, the element that a country should become ineligible for GSP preferences when it accounts for 15% of developing world (rather than total) exports to the EU will increase the probability that countries will be graduated out of preferences too soon. A recent study by researchers at Sussex University shows that, for instance, this would deprive Thailand of preferences for vehicle exports, despite the fact that Thailand accounts for less than 2% of total vehicle exports to the EU.³⁰

2.29 Preferences offered under a GSP also need to be enhanced. Additional differentiated criteria would need to be added to the GSP to enhance preferences to ACP countries. We suggest that additional development criteria, such as commodity dependence, landlocked economies, vulnerable island economies, size of informal sector, priorities cited in ACP national development strategies, poverty or Human Development Index levels, could be added that would address some of the particular development challenges faced by ACP states. This could amount to giving effective EBA access for ACP countries.

2.30 Market access preferences alone will not secure the reduction in poverty envisaged in the Cotonou Agreement. We believe strongly that if the GSP really is to be an EPA alternative, it must address some of the developmental elements promised by Cotonou. This should include aid as well as technical capacity building to address supply-side constraints and negotiating capacity. It should also allow for adjustment costs. We also stress the problems of sanitary and phytosanitary measures (SPS) and other standards acting as non-trade barriers to ACP countries seeking market access to the EU. Work on alternatives should also address these issues as part of the wider Cotonou agreement and DFID's trade policy work in general.

2.31 Several other market access ideas for Africa are currently being discussed in the Africa Commission.

2.32 Further research is needed to identify which alternative would be preferable. We are calling on the Government to fulfil its commitments and work alongside ACP countries, in parallel with the EPA process, to ensure that any alternative provided is developmentally beneficial.

- What work is the UK Government undertaking to ensure that ACP countries are offered a credible alternative to EPAs?
- Government departments have told NGOs that there is no urgency in engaging with EPAs. What timetable of work does the UK Government have to ensure that these alternatives are offered to ACP countries before the current deadline of 2006?
- What is the UK government doing to ensure that EPAs would enhance rather than constrain ACP countries' chances of achieving the internationally agreed Millennium Development Goals?

²⁸ Directives for the negotiation of a new development partnership agreement (draft document), agreed at the General Affairs Council, 29 June 1998. In addition, paragraph 58 of the Report on the Commission communication on the guidelines for the negotiation of new co-operation agreements with the African, Caribbean and Pacific Countries, by the Committee on Development and Cooperation, 4 March 1998 (COM(97)0537—C4—0581/97) calls on the "European Member States to ensure that the level of the GSP is improved substantially in the course of the upcoming review".

²⁹ In the UK Government's response to the European Commission's Green Paper on the future of the rules of origin, it stated: "The UK's view is that there is a clear need for urgent and comprehensive review to ensure consistency between the current policy objectives and the effects of PRO [preferential rules of origin]." Commission Green Paper on the Future of Rules of Origin in Preferential Trade Arrangements, United Kingdom Response, DTI and HM Customs and Excise.

³⁰ Stevens, C and Kennan, J (2004) *Implications of European Commission Proposals for Reform of the Generalised System of Preferences*, Brighton: Institute of Development Studies.

3. WHAT ARE THE IMPLICATIONS FOR THE ACP STATES OF INCLUDING THE “NEW ISSUES” OF INVESTMENT, COMPETITION, GOVERNMENT PROCUREMENT AND TRADE FACILITATION IN THE EPAs?

ACP States and New Issues

3.1 For ACP states there are several reasons to be cautious of the European Commission’s proposals to negotiate the “Singapore issues” in EPAs.

3.2 The most important is that ACP countries have long and strongly opposed negotiating in these areas. At the WTO, the ACP and the Africa Union opposed the inclusion of the “Singapore Issues” in the Doha Agenda.³¹ Along with other developing countries, they succeeded in forcing all but one of these issues (trade facilitation) out of the Doha round.

3.3 Inclusion of these issues was not agreed in the Cotonou Agreement. Although Cotonou refers to competition policy, trade facilitation and investment it does so in the context of regional economic development and development co-operation rather than as a subject for trade negotiation on a non-discriminatory basis.³²

3.4 The ACP has also collectively stated that it does not want to negotiate the “Singapore Issues” in EPAs, saying that this area of disagreement with the EU was of a “fundamental nature”.³³ Despite this long-standing opposition, the EU is currently pushing for all four issues to be included in EPAs, on a non-discriminatory basis.

3.5 Secondly, these issues have vitally important economic and social development implications. The EU’s EPA negotiating mandate pushes for liberalisation that benefits European firms disproportionately, at the expense of ACP country governments’ abilities to use government procurement or investment as an element in development policies based on their own national priorities and capacities. Joseph Stiglitz has said that the imposition of the “Singapore Issues” on developing countries would “almost surely impede development”.³⁴

3.6 Thirdly, were they to be agreed on, there would be substantial costs to implementing policies on these issues, often without any clear developmental benefits. Moreover the costs of implementation are prohibitively expensive for cash-strapped governments. In eight of the 12 developing countries studied by World Bank economist Michael Finger, for instance, the cost of implementing the six Uruguay Round agreements that required regulatory change was larger than their entire annual development budgets.³⁵

3.7 In addition, these issues cut to the heart of sovereignty, and including them in a bilateral agreement is an invasion of developing countries’ policy space. Cotonou contains a strong commitment to “ownership” of local policies:

“ . . . co-operation framework and orientations shall be tailored to the individual circumstances of each ACP country, shall promote local ownership of economic and social reforms and the integration of the private sector and civil society actors into the development process.”³⁶

3.8 Finally, developing countries often have a limited capacity to analyse and negotiate on these issues. We now turn to particular concerns about each issue in turn.

³¹ ACP Declaration on the Fifth Ministerial Conference of the WTO, Brussels, 1 August 2003. Africa trade ministers’ meeting, Grand Baie, Mauritius, 19–20 June 2003.

³² To give two examples: for investment, the Cotonou Agreement went no further than calling for co-operation “aimed at creating a favourable environment for private investment” (Cotonou Agreement, Article 21.1), and “taking measures and actions which help to create and maintain a predictable and secure investment climate” (Cotonou Agreement, Article 75). The EU Negotiating Mandate goes much further asking for: “a regulatory framework . . . based on principles of *non-discrimination*, openness, transparency and stability.” For government procurement, Cotonou does not make any reference to public procurement. The EU Negotiating Mandate asks for “progressive liberalisation of . . . procurement markets on the basis of the principle of *non-discrimination*” (“Recommendations authorising the Commission to negotiate Economic Partnership Agreements with the ACP countries and regions”. Agreed by the EU General Affairs Council 17 June 2002.)

³³ ACP press release accompanying the Joint Report on the all-ACP—EC phase of EPA negotiations held in October 2003. Joint Report on the all-ACP—EC phase of EPA negotiations, October 2003, Para 25 says: “For the ACP side, the rules aspects of the trade-related areas should not be the subject of EPA negotiations before agreement is reached on how to treat these issues at a multilateral level, particularly in the WTO.”

³⁴ Stiglitz, J (2004) *An Agenda for the Development Round of Trade Negotiations in the Aftermath of Cancún*, London: Commonwealth Secretariat.

³⁵ Finger, M and Schuler, P (1999) *Implementation of Uruguay Round Commitments: the development challenge*, World Economy 23, Washington DC: World Bank.

³⁶ Cotonou Agreement, Article 19.

Investment

3.9 Evidence suggests that non-discrimination—the idea that a country cannot or should not systematically discriminate between domestic and foreign investors—is not a successful development strategy. During the early stages of their development, many of the now developed countries did not adhere to this principle. They used a range of instruments, including limits on foreign ownership, insistence on joint ventures between foreign and local firms, local employment and performance requirements on exports to build up their national industries.³⁷

3.10 The European Commission argues that an investment agreement would attract much-needed FDI into these countries. However, the literature suggests that FDI does not necessarily follow the conclusion of investment protection treaties or free market policies—nor does it necessarily precede economic growth.³⁸

3.11 Since the mid 1980s, nearly all African countries have taken steps to reform and liberalise their investment regimes through a combination of policy, legal and institutional changes. Consequently, the continent has one of the most liberal (investor-friendly) investment regimes in the world. Currently, there are 35 Investment Promotion Agencies (IPAs) in Africa and African countries have concluded 428 Bilateral Investment Treaties (BITs), mostly with European countries.³⁹ This constitutes about a quarter of all BITs in the world.⁴⁰

3.12 Despite the high number of Bilateral Investment Treaties (BITs) concluded by African countries and the extensive rights given to foreign investors, Africa continues to lag behind the rest of the world in attracting FDI. During the 1990s the share of Africa in total world FDI and in total developing country FDI dropped by 1% and 3% respectively.⁴¹ A recent World Bank survey on FDI flows from industrial countries to 31 developing countries found that “countries that had concluded a BIT were no more likely to receive additional FDI than were countries without such a pact”.⁴²

3.13 In fact, countries such as China and Malaysia, with comparatively discriminatory investment regimes have been among the largest recipients of FDI during the last decade. This suggests that the level of a country’s *per capita* income, its rate of growth and its physical and human capital infrastructure are more critical determinants of FDI than free markets or legal and regulatory frameworks.⁴³ There is therefore no compelling reason why investment agreements under EPAs will lead to increased FDI flows to Africa. On the contrary, such agreements, including increased rights for European corporations to extract African resources and repatriate profits abroad, could increase “capital flight” from the continent.⁴⁴

Competition

3.14 It would be very expensive for developing countries to implement new laws on competition. The decision to establish competition regimes should be based on their own cost/benefit analysis, depending on the nature and composition of their private sector, and integration into international markets. Many also lack capacity in this area.⁴⁵ It is also questionable to what extent African countries would be able to enforce such a policy. As Cambridge economist Ajit Singh observes, countries such as Ghana or Tanzania would find it very difficult to prove—let alone take action against—MNCs that were using predatory pricing.⁴⁶

³⁷ Chang, H J, (2002) *Kicking Away the Ladder*, London: Anthem Press; Ranis, G (2003) “Symposium on Infant Industries: A Comment”, *Oxford Development Studies*; Tribe, M (Jan–Feb 2003), “Manufacturing, Development and De-industrialisation: Rethinking the Infant Industry Concept”, *the Courier*, ACP-EU.

³⁸ African Development Bank, *International Investment in Africa: Trends and Opportunities*, 2001; Chang, HJ *Foreign Investment Regulation in Historical Perspective—Lessons for the Proposed WTO Agreement on Investment*, University of Cambridge, Faculty of Economics and Politics Working Paper, March 2003; Chang, H J, *Kicking Away the Ladder*, *op cit*; Singh, A, *Foreign Direct Investment and International Agreements: A South Perspective*, The South Centre, 2001; UNCTAD (2000) *A Positive Agenda for Developing Countries: Issues for Future Trade Negotiations*; World Bank (2003) *Global Economic Prospects and the Developing Countries 2003: Investing to Unlock Global Opportunities*, Washington DC: World Bank.

³⁹ African Development Bank, *International Investment in Africa: Trends and Opportunities*, 2001.

⁴⁰ At least 42 African countries have both joined the Convention for the Settlement of Investment Disputes Between States and Other States (administered by the International Centre for the Settlement of Investment Disputes—ICSID) and the Multilateral Investment Guarantee Agency (MIGA—administered by the World Bank), which offer non-commercial risk coverage for foreign investment.

⁴¹ African Development Bank, *International Investment in Africa: Trends and Opportunities*, 2001.

⁴² World Bank, *Global Economic Prospects and the Developing Countries 2003: Investing to Unlock Global Opportunities*, 2003.

⁴³ Bhinda, *et al* (1999) *Private Capital Flows to Africa: Perception and Reality*, The Hague: FONDAD.

⁴⁴ Africa already has a higher proportion of wealth held overseas by residents than any other region of the world: 39% as opposed to East Asia’s 6% before the financial crisis of 1997. Capital flight amounts to a significant economic loss for Africa. It constitutes a diversion of domestic savings from investment, a loss of fiscal revenue (through loss of taxation), and sustains the adverse psychological perception that Africa is not conducive to FDI.

⁴⁵ Stiglitz, J (2004) *An Agenda for the Development Round of Trade Negotiations in the Aftermath of Cancún*, London: Commonwealth Secretariat.

⁴⁶ Singh, A (1999) *Competition Policy and Development and Developing Countries*, South Centre Working Paper no 7, November 1999, Geneva: South Centre.

Government Procurement

3.15 At least 60 non-OECD countries have procurement outlays of less than \$1 billion each, meaning it is questionable, for them, whether it is worth the costs of implementing wide-scale reform.⁴⁷ In addition, Joseph Stiglitz argues that a government's ability to procure from firms of its own choice is a major macroeconomic instrument for developing countries.⁴⁸ And again, genuine reciprocity is unlikely—there is little chance that African companies are able to make inroads into EU government procurement.

Trade Facilitation

3.16 While speeding the transit of goods through customs and cutting red tape is a good thing in terms of border efficiencies, the reforms required under trade facilitation are likely to be extremely costly, and the implications for poverty reduction are not yet well researched or understood. It would be a huge financial burden for countries with such small trading levels to implement trade facilitation regimes more suitable for France or Switzerland. Developing countries are still struggling to implement the GATT rules on trade facilitation, which are punishingly expensive. By one estimate the 16 areas of customs reforms alone cost \$2.5 million each to implement.⁴⁹ A new trade facilitation agreement is now also under negotiation at the WTO, potentially making regional agreements redundant.

— In the 2004 DTI White Paper on Trade and Investment the UK Government stated: “The EU as a whole has made clear that we do not have ‘offensive’ market access interests, and the UK will seek to hold our EU partners to this.”⁵⁰ What steps has the UK Government taken to ensure that the European Commission drops its offensive interests in the “Singapore issues” in EPA negotiations?

4. THE EXTENT TO WHICH RULES OF ORIGIN DISCOURAGE SOME LDCs FROM USING THE EVERYTHING BUT ARMS AGREEMENT AND MEMBERSHIP OF AN EPA WILL COMPEL THEM TO OPEN THEIR MARKETS TO THE EU, WHAT OPTIONS ARE AVAILABLE TO SUCH STATES?

LDCs and the Obstacles to the Uptake of Everything But Arms (EBA)

4.1 The EU is the single most important market for LDC exports. It had been predicted that the introduction of EBA would result in a positive but modest increase in ACP LDC exports. However, while the EBA tariff concessions are superior to those offered to LDCs under Cotonou, in reality, take-up has been disappointing. Non-tariff barriers have made it hard for LDCs to exploit EBA's preferences.

4.2 This is illustrated by figures provided by the DTI,⁵¹ which show that total imports from LDCs into the EU actually fell by around 2% between 2001—when EBA was introduced⁵²—and 2003.⁵³

4.3 The principal non-tariff barrier is the overly onerous RoO, which is significantly less favourable under the EBA/GSP than under Lomé. Lesotho's experience highlights this dramatically. In 2003, Lesotho exported \$418.99 million of clothing to the USA, \$6.39 million to Canada, and just \$1.18 million to the EU. The primary reason for this startling difference is that the US African Growth and Opportunity Act and the Canadian Market Access Initiative for LDCs have considerably more flexible RoOs than the EU's EBA/GSP.⁵⁴

4.4 The specific elements of RoOs that have undermined EBA preferences are the value-addition requirement and the need for dual transformation in textiles/clothing (yarns to fabrics, fabrics to clothing). The absence of a regional cumulation block for African countries under GSP has also been detrimental. Finally, many LDCs have simply found the costs and difficulties of providing the necessary paperwork too high.

4.5 However, there are also other factors to blame for the poor effectiveness of the EBA. These include the EU's rapidly changing sanitary and phytosanitary (SPS) standards, and the failure of EBA to address other supply-side constraints.

⁴⁷ Evenett, S (2002) *Is there a case for new multilateral rules on transparency in government procurement?* Bern: World Trade Institute.

⁴⁸ Stiglitz, J (2004) *An Agenda for the Development Round of Trade Negotiations in the Aftermath of Cancún*, London: Commonwealth Secretariat.

⁴⁹ Finger, M and Schuler, P (1999) *Implementation of Uruguay Round Commitments: the development challenge*, World Economy 23, Washington DC: World Bank.

⁵⁰ DTI (2004) *Trade and Investment White Paper—Making Globalisation a Force for Good*, London: DTI.

⁵¹ Response to private letter to DTI requesting data on EU imports from LDCs on a yearly basis between 2000 and 2003.

⁵² The EBA came into effect on 5 March, 2001.

⁵³ This does not include imports of rice, bananas and sugar into the EU as the tariffs on these products are being phased out over a longer time period under EBA (2007 for bananas, and 2009 for rice and sugar).

⁵⁴ World Trade Organization, *Background Statistical Information with Respect to Trade in Textiles and Clothing*, 20 September 2004. G/L/692.

Economic Partnership Agreements (EPAs) and LDCs

4.6 Although the EBA will continue to exist, LDC countries, which, as part of a regional negotiating bloc, sign up to an EPA, may be compelled to open their markets to the EU.

4.7 Under EPAs, the EU appears to be pursuing the same level of reciprocal market access from LDCs as from non-LDC ACP countries. Should LDC countries chose to sign up to an EPA, this effectively overrides EBA's unilateralism, as EPAs demand reciprocal market opening.

4.8 Although special treatment for LDCs has been a core principle of the multilateral trading system,⁵⁵ the rules governing bilateral free trade areas (FTAs) do not contain such forms of special and differential treatment for LDCs, who must be treated in the same way as developed and developing countries. As proposed EPAs are free trade areas they are bound by the constraints of WTO rules on FTAs.⁵⁶

4.9 In short, EPAs erode LDC countries' defensive interests but fail to offer other, commensurate benefits. For this reason, it is not clear why LDCs would want to join an EPA. It is not even clear to UK Government officials.⁵⁷ Given that LDCs account for 32 of the 46 African countries, and 46 out of 77 ACP countries, negotiating EPAs this casts further doubt on the viability of the EU's approach. For example in the ECOWAS EPA negotiating region in West Africa, 13 out of 16 countries are LDCs, which could leave a regional EU trade agreement with only three countries.

Options available to LDCs—EPAs or alternatives

4.10 LDCs therefore face two options. They can either sign an EPA and be required to open their markets to EU trade at the same rate as other non LDC countries, but potentially benefit from marginally superior RoOs (although this is not a guaranteed outcome of EPA negotiations).

4.11 The other option is for LDCs to decide not to sign up to an EPA, and the reciprocal market opening that this entails, yet maintain market access into the EU through EBA.

4.12 However this second option presents two important difficulties. The first is that the current limitations that prevent LDC uptake of EBA, outlined above, would have to be addressed to make this a satisfactory alternative to LDCs.

4.13 It is vital that the EBA RoOs are modified to address their current flaws. This should take into account production constraints faced by most LDCs. For instance, LDCs must be allowed to use intermediate and packaging materials without being penalised. Quick and simple derogations where LDCs are seeking to establish new export-oriented industries are also desirable.

4.14 A further problem created by EPAs is that were LDCs to opt out of an EPA and remain with the EBA, EPAs would place a substantial obstacle to attempts for these countries to pursue regional integration, independent of the EU's EPA process, with their neighbours.

4.15 Any LDC that wished to join a regional trade agreement with their richer non-LDC neighbour who was part of an EPA would face the problem of trade diversion from European exports. In order to avoid becoming part of a *de-facto* free trade area with the EU, LDCs would have to implement substantial border measures to be able to screen out European exports. This would act as a harmful and costly disincentive to locally owned regional trade integration.

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| <ul style="list-style-type: none">— Why are LDCs being asked to open their markets to the EU without getting any substantial welfare gains in return?— What is the UK Government doing to address the problems contributing to the lack of uptake of LDCs of Everything But Arms?— Is the UK Government considering offering an enhanced Everything But Arms as an alternative to those LDCs who do not wish to join an EPA? |
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⁵⁵ GATT, Part IV (1947 and 1994).

⁵⁶ Understanding of interpretation of Article XXIV of GATT.

⁵⁷ At a recent NGO consultation a senior UK civil servant asked another senior UK civil servant "what's in EPAs for LDCs?" to which the other senior civil servant replied "to be honest not very much that I can think of".

5. AFTER THE WTO RULING AGAINST THE EU SUGAR REGIME WHAT CAN BE DONE TO HELP THOSE ACP STATES HEAVILY DEPENDENT ON PREFERENTIAL ACCESS TO THE EU MARKET?

5.1 The October 2004 WTO panel ruling on EU sugar export subsidies does not directly threaten the EU's preferential import arrangements for sugar from ACP states.

5.2 The WTO dispute panel ruled illegal the export of around 2.7 million tonnes of surplus EU production—so-called “C” sugar—which was found to be cross-subsidised. The panel found that the EU is only able to export non-quota “C” sugar at prices below the average total costs of production because the support prices for quota sugar are sufficient to cover the fixed costs of production, while world prices cover only their marginal costs.

5.3 The panel also ruled that the subsidised export of 1.6 million tonnes of sugar, equivalent to total imports of sugar from the ACP countries and India, has to be included when calculating the total allowable quantity of EU subsidised sugar exports under WTO rules. The EU has disingenuously claimed that this ruling represents a threat to its preferential sugar import regime. This is not true. The WTO ruling does not affect the EU's right to import sugar on preferential terms; it only affects their right to export on subsidised terms an amount equivalent to the value of its preferential imports, in excess of its WTO reduction commitments. The sugar panel ruling specifically states that the EU should implement reforms in a way that protects the interests of those countries already benefiting from preferential access.

5.4 However, any reform of the EU sugar regime, scheduled for 2005 and further precipitated by the WTO ruling,⁵⁸ that affects the price received by or quota allocated to ACP sugar-exporting countries, will have a significant impact on those countries.

5.5 The extent to which ACP countries will be affected by EU sugar reform depends on the extent to which their sugar industries have the potential to survive in a more competitive environment as well as the specifics of the reform proposals. The European Commission's current reform proposals involve cutting the internal support price for sugar by one-third over three years, and reducing domestic production quotas by 2.8 million tonnes over four years.

5.6 We are concerned that these proposals fail adequately to take account of the interests of ACP countries, and the wider concerns of developing countries. The steep and rapid price cuts and limited quota reductions that have been proposed will both undermine the value of preferential access for the poorest countries, and fail to end over-production and export dumping. The reform proposals also fail to incorporate either an adequate transition period for ACP countries to adjust to the new EU policy environment, or concrete plans to support ACP countries in making that transition.

5.7 EC reform proposals to cut prices by one-third would have a very detrimental impact on some ACP sugar industries. Direct job losses could be as high as 32,000 in Jamaica and 20,000 in Trinidad, while Jamaica would lose €73 million a year in foreign exchange earnings, Belize €36 million, and Trinidad €30 million.⁵⁹ While these countries are not among the poorest in the world, some of them do have large numbers of very poor people. In Guyana, 35% of the population lives below the national poverty line, and Swaziland is ranked only one place above Bangladesh—an LDC—in the UN's Human Development Index of 2003. Yet, in contrast to clear plans to compensate EU sugar producers for lower prices, the EU has been very vague about how ACP countries will be helped to adjust to the new regime.

5.8 Nor does the proposed timetable for reform include an adequate transition period for ACP countries to utilise proposed EU adjustment assistance to improve the efficiency of their sugar industries before the EU policy changes are implemented. The EU should engage in a structured dialogue with the ACP countries now, to agree how to address these concerns and to develop a package of country-specific trade and aid measures. Country-level analyses should be undertaken in association with local sugar associations and national governments, with the aim of identifying specific adverse effects and effective remedial measures that could be supported by the EU. Possibilities for exploration include:

5.8.1 Using the Cotonou Agreement Investment Facility risk capital loans at concessional rates to reduce the debt service burden for smallholder sugar producers, since they will face a loss of earnings per tonne on sugar produced, and to finance capital investments in upstream value-added processing of sugar.

5.8.2 Extending EU support to ensure the continuation of social service provisions, formerly financed by sugar companies, from the additional revenues resulting from the EU sugar access arrangements for ACP countries.

5.8.3 Supporting the establishment of a special unit in the local sugar association or government, as appropriate, dedicated to helping to identify and address the adverse consequences of EU sugar reform.

5.8.4 Extending budgetary support to ACP governments, linked to the decline in taxation revenue resulting from revenue losses on exports of sugar after EU reform.

⁵⁸ The EU is likely to appeal the ruling, which could delay the final outcome until early in 2005. Assuming that the ruling is not overturned on appeal, the EU will have to change its sugar policies to reflect the findings of the WTO panel, or face potential trade sanctions by Brazil, Thailand, and Australia. Current EC reform proposals singularly fail to address the central finding against “C” sugar exports, and this adds considerably to existing pressure for EU sugar reform.

⁵⁹ LMC International and Oxford Policy Management (2003).

5.8.5 Providing compensation in the form of a quota buy-back scheme for any ACP country wishing to transfer its quota back to the EU in return for a guaranteed flow of development financing. This option may be attractive to very high-cost producers where lower EU prices may compromise the viability of their sugar industries.

5.8.6 Helping the industry to invest in better environmental practices to ensure that it implements existing environmental legislation and addresses the range of environmental impacts from growing and processing sugar.

5.9 Some of the above measures could be supported using existing instruments of the European Development Fund. Others will require the creation of new instruments to overcome the shortcomings of EDF procedures. Crucially, the EU must make a political commitment to ensure the timely disbursement of funds, since delays have seriously undermined previous efforts to extend adjustment assistance to ACP producers of rum and bananas.

November 2004

Penny Fowler, Trade Policy Adviser, Oxfam GB, submitted a supplementary memorandum in response to Question 48, oral evidence session 30 November 2004. It drew attention to the points listed above (5.8 through to 5.9). A copy of this has been placed in the Library.

Memorandum submitted by The Biscuit, Cake, Chocolate & Confectionery Association (BCCCA)

1. The evidence session will address key questions. The following comments pertain specifically to question 4 (*in the Committee's Terms of Reference*):

After the WTO ruling against the EU sugar regime what can be done to help those ACP states heavily dependent on preferential access to the EU market?

2. The Biscuit, Cake, Chocolate & Confectionery Association (BCCCA) represents all the leading and many smaller manufacturers of biscuits, cakes, chocolate and confectionery in the UK—more than 90 companies, accounting for over 90% of the industry's production. The sector as a whole employs some 60,000 people (although this number is falling—see below) and has annual consumer sales of around £8 billion.

3. Although the European Commission has appealed against the WTO ruling, it is clear that there will be significant change in the workings of the world sugar market over the next few years. Indeed, the Commission's own draft outline proposals for reform of the EU sugar regime envisage considerable change.

4. Unfortunately, the decision to appeal against the WTO ruling and not to take forward reform of the sugar regime until that is resolved has slowed down the process of reform. This is in no-one's interest, including the ACP countries. Almost all stakeholders are agreed that the current regime is unsustainable, and it is therefore in the interests of all participants in the market to ensure an orderly transfer to a new regime, given that there is no enthusiasm for complete liberalisation of the market.

5. A newly-agreed, reformed EU sugar regime offers the best chance of an appropriate transitional regime being negotiated with the ACP countries, and in view of the unsustainability of the current regime the more rapidly a new regime can be agreed, the better. The BCCCA supports the idea of a transitional regime and acknowledges the special position of the UK *vis-à-vis* many of the ACP countries. The BCCCA is therefore pressing the UK Government to push the EU to move rapidly towards a new regime and to take the lead in developing a protection package for ACP countries during the transition.

6. In response to a recent Parliamentary Question, the Secretary of State for International Development pointed out that the EU sugar reform proposals would reduce the volume of EU subsidised sugar exports dumped on world markets. In actual fact, compliance with the initial WTO ruling against EU sugar exports, coupled with the European Commission's intimation of maintaining preferential status for existing ACP suppliers, could result in the cessation of all future EU exports of sugar. This would invariably lead to an improvement in world market prices (from between 2% and 60% depending on whichever economic forecast you believe). However, the question arises as to who will benefit from these improvements in world market prices?

7. The WTO ruling and EU sugar reform will mean that EU beet growers will only be supplying the EU market. EU national quotas will be reduced and support prices cut, but EU beet growers and processors are looking to a maintenance of the quota system so as to preserve high internal domestic EU prices. Those ACP cane suppliers with preferential entitlement to the EU market will continue to receive the same prices as EU beet growers.

8. The question has to be addressed as to why sugar is grown? In the EU 75% of all sugar goes to industrial usage ie as an ingredient in manufacturing food products. In the UK the figure is around 70%. But what does this mean? Much has been made in the EU sugar reform proposals of possible job losses in the growing and refining/processing sectors. However, with EU sugar prices at three times world levels and UK prices

some 10% higher than in other EU member states, BCCCA members have witnessed in recent years an inexorable rise in imports of biscuits and confectionery and a reduction in exports, so that our once healthy positive trade balance has moved into deficit. The result has been the closure of some 15 factories and around 10,000 job losses in our sector in the UK in the past five years and a shift of production eastwards to the borders of the European Union, where sugar costs are far lower. If that trend continues, our traditional sugar suppliers (UK beet farmers and ACP cane growers) will lose their market for industrial sugar—a market which currently accounts for 70% of UK sugar consumption.

9. The ACP preferential suppliers want the guarantee of high EU prices for as long as possible, but, as already stated, such high prices seriously impact on the viability of UK/EU industrial sugar users, where jobs are at stake. BCCCA members and EU industrial sugar users need early access to sugar at world prices so as to remain competitively viable. This is in the fundamental interests of ACP sugar cane suppliers.

10. ACP cane suppliers should be compensated via the EU Development Budget and not as a direct levy on sugar users and consumers. However, politically ACP growers cannot expect to receive more than EU beet growers. For the latter, there will be decoupled payments and, in the case of ACP cane growers, this principle should be observed and at a similar level of payment. Importantly, there is a need for EU sugar users to gain access quickly to sugar at world prices so as to remain competitive on both domestic and in third-country markets. However, any programme of restructuring for ACP economies will have to be a managed programme over a realistic timescale. This means that the timetables for reform of the EU Sugar Regime and the restructuring of the ACP economies will not be of the same duration, the former hopefully taking place by 2008, whilst the latter will take several years.

11. All existing ACP preferential suppliers must be realistic as to their future ability to compete on the world sugar market. If they are able genuinely to compete at world level prices, then they should invest payments from the EU Development Fund to develop their indigenous sugar industry, but if they are not able to compete, then they must take these Development Fund payments and invest in alternative industries. There must be no scope for procrastination and the EU should be convinced that the correct choices have been made by each of the existing ACP supplier countries as to where these payments will be invested.

12. For those countries that can remain competitive in the world sugar market, serious consideration should be given to looking beyond sugar cane growing to higher added-value processing and products. For example, there is no reason why major UK and EU processors/refiners should not look to establishing such facilities in the growing countries. Apart from the higher financial returns from selling refined white sugar rather than raw sugar, there could be scope to moving to other added-value production. Consideration should also be given to developing biofuels as an alternative option to food use for sugar. There is undoubtedly a market for biofuels, which can deliver environmental benefits such as reduction in greenhouse gas emissions. We are pleased to note the work that has been commissioned by DFID from the Overseas Development Institute “Forthcoming changes in EU sugar/banana markets: a menu of options for an effective EU transitional assistance package”, which will include analysis of alternative uses for sugar. This should prove very helpful in developing realistic proposals for adjustment, because the absence of such robust programmes will render political resolution for all interested parties virtually impossible and, consequently, could be the impediment upon which the whole EU sugar reform proposals will founder.

November 2004

**Memorandum submitted by Dr Stephen Dearden, Department of Economics,
Manchester Metropolitan University**

THE PACIFIC EPA

Negotiations in regard to the Pacific EPA commenced in September this year. With the exception of Fiji and Papua New Guinea the EU is not a significant market for the 14 Pacific ACP (PACP) exports (€530 million 2003; 9% of the regions total), nor is the EU a significant supplier of their imports (€300 million: 4%). The five low income PACP's—Kiribati, Samoa, Solomon Islands, Tuvalu and Vanuatu—qualify for the non-reciprocal “Everything But Arms” trade agreement.

The principle difficulties in the establishment of a reciprocal PACP EPA lies in the implications of such an agreement for their trade arrangements with Australia and New Zealand under the Pacific Agreement on Closer Economic Relations (PACER). It provides that in the event that negotiations with another developed country be commenced then similar consultations should begin with Australia and New Zealand “with a view to extending similar arrangements”. Australia and New Zealand are far more significant trading partners for the PACP's and the implications of a reciprocal free trade agreement with them would have a far more profound impact upon their economies. Although Australia and New Zealand appear sympathetic to the development character of the EU's intentions in regard to an EPA, nonetheless any assessment of the impact of tariff reductions must take into account the likely extension of these concessions under PACER. Such changes will be significant not only in terms of the possible structural adjustment that may be required, but also for fiscal adjustment, as many PACP's are particularly dependent upon customs duties for government finance.

Similar extensions of any free trade agreement will be required for the three ACP US compact states—the Federated States of Micronesia, Palau and the Marshall Islands.

Given the PACPs limited interests in EU trade, and sensibilities to any PACER revision, the PACPs have proposed a flexible two-tier EPA structure that will provide something of benefit to all its members. The proposal is for an “umbrella” or “master” agreement, setting out the broad terms including MFN for the EU, accompanied by subsidiary agreements covering a broad range of issues including services, investment, fishing and the trade in goods. The PACP’s could then choose to which subsidiary agreements they wish to subscribe, with only those committing to the trade in goods agreement needing to adopt reciprocity. These latter would be WTO notifiable, with implications for PACER. This radical solution to the particular problems and diverse interests of the PACP’s has not been rejected by the EU and will form the basis for further studies and negotiations. However some ambiguity remains, as might be expected, in the *Joint Road Map* (September 2004). However for the EU WTO compatibility remains a central requirement, although the potential of the current Doha round for introducing greater flexibility in the interpretation of “special and differential treatment” is recognised.

A particular problem exists for Fiji in regard to significant sugar exports to the EU under the Sugar Protocol (92% of the value of its EU exports). The recent successful WTO challenge to the EU’s dumping of sugar on the world markets and proposals for reform of the CAP are likely to lead reductions in the guaranteed price, with significant implications for long-term future of Fiji’s sugar industry. While sugar export quotas are expected to continue, their value will almost certainly decline with a fall in the guaranteed price and new suppliers may enter the EU market under the EBA. One of the unanswered questions of the regional EPA negotiations is their relationship to discussions about the Sugar Protocol, which will need to take place at the ACP level.

It is also unclear as to the prospects for additional aid that might support the restructuring, economic and fiscal, that will be necessary under an EPA. The Commission appears to have indicated that no additional funding is regarded as necessary beyond that contained within the current envelope of EDF 9. However EDF 10 negotiations will almost certainly offer the opportunity to revisit this issue.

Finally, I would draw attention to the Sustainability Impact Assessment that has been contracted by the Commission to inform the “stakeholders” in the EPA negotiations. Intended to assess the economic, social and environmental impact of all regional EPA proposals, this contract has been placed with PricewaterhouseCoopers. In the case of the Pacific PricewaterhouseCoopers are just commencing their consultation, but had decided to undertake a sector study of fisheries. Although there are references in the *Joint Road Map* to “particular attention also to be paid to the ongoing EC’s SIA exercise with a view to both making optimal use of its results within EPA negotiations and feeding ideas and outcomes of the negotiation process into the construction of a Pacific ACP-specific SIA process”, there must be serious concerns as to the value of this exercise. The fisheries industry is a sector where considerable work has already been undertaken. The usefulness of this exercise for the broader Pacific EPA negotiations is not self-evident and the selection of this focus—other than as an expression of EU commercial interests—is unclear. Indeed the question of the ownership of the SIA process is not apparent. Certainly among the PACPs there was little awareness and little value placed upon the SIA. By contrast the Pacific Forum Secretariat will be conducting supportive technical assessments over the coming year. The strength of the Pacific Forum Secretariat is likely to prove an important factor in the successful outcome of the EPA negotiations in a region where intra regional trade is minimal and economic and political interests diverse. This diversity needs to be recognised by the EC and the appropriateness of its rather dogmatic emphasise upon the potential for regional integration questioned.

October 2004

Letter to the Clerk of the Committee from the LDC London Sugar Group

I have been asked by the Chairman of the LDC London Sugar Group to write to you on behalf of our group which represents the sugar industries of the of Least Developed Countries (LDCs). Of the 50 LDCs, 38 are ACP countries signatory to the Cotonou Partnership Agreement, and 19 LDC-ACP countries produce sugar. At the 4th Summit of ACP Heads of States and Governments held in Maputo on 21–24 June 2004, it was decided to engage in joint ACP and LDC ministerial consultations on sugar, recognizing the cross-membership and mutuality of interests between the ACP and LDC sugar producing states.

We understand the International Development Committee will be taking evidence on Monday 7 February 2005, as part of its inquiry into the EU’s Trade Agreements with ACP countries, from the Rt Hon Peter Mandelson, Commissioner for Trade, European Commission.

In preparation for your meeting with Commissioner Mandelson, we would like to bring to your attention and that of all Members of the IDC the statements made on ACP and LDC sugar trade by the LDC ministerial spokesman and representative to the 2635th European Council of Agriculture Ministers in Brussels on 24 January 2005 (*Annex 1 and Annex 2*). These statements were made to Commissioner Mandelson and also, *inter alia*, to the Rt Hon Margaret Beckett, MP, Minister for the Environment, Food and Rural Affairs. I have pleasure in attaching these statements.

You may wish to know that Commissioner Mandelson visited sugar estates in Guyana in December 2004, and also that in January 2005, the Rt Hon Gordon Brown, MP, Chancellor of the Exchequer, visited the Maragra sugar estate in Mozambique. Whilst sugar is fresh in Mr Mandelson's mind, we wonder if perhaps you may wish to ask him on Monday about the huge importance of ACP and LDC sugar trade with the European Union to the tens even hundreds of thousands of people who depend on each sugar mill in ACP and LDC countries?

In case you should have any questions regarding the work of our Group and wider lobby, please don't hesitate to let me know.

Julian Price, Secretary

February 2005

Annex 1

Address to the Council of Agriculture Ministers of the European Union, meeting in the margins with ACP and LDC Ministers on 24 January 2005, by Mr Graham Clark, Director, Illovo Sugar Ltd, Chairman of the LDC London Sugar Group

Mr President, honourable Ministers, Excellencies, distinguished colleagues;

The Everything But Arms initiative (EBA) in relation to sugar captures not only the true spirit and essence of sustainable development in the poorest countries in the world but is a working model of what the LDCs so desperately require in their fight to lift themselves from being the poorest of the poor.

The European Commission proposals for the reform of the sugar regime pose a threat to the fundamentals of LDC development and have prompted the LDCs to propose what in their opinion is a reasonable and meaningful adaptation of EBA.

Rural development, poverty alleviation, food security and the beginnings of a better quality of life for those who need it most can already be seen in the LDCs who have been able to take advantage of this opportunity to date.

In countries as widespread and diverse as Mozambique and Malawi, Zambia and Tanzania, Ethiopia and Sudan, Togo and Benin, Bangladesh and Nepal, Burkina Faso, the Democratic Republic of Congo and Madagascar, sugar has been exported to Europe, in most cases for the first time, and is making a difference.

A remunerative price and a predictable level of export earnings is enabling those sugar industries to consolidate and undertake expansion and modernization.

The request of the LDCs for accelerated but managed market access over an extended transition period in conjunction with a more modest and gradual reduction in price, together with a plea to defer duty-free and quota-free entry for sugar of LDC origin, is a position which has not been taken lightly.

Widespread consultations between LDC governments, sugar cane farmers, sugar producers, investors and NGOs have concluded that participation in an orderly managed market over an extended transition period, would create and enhance the predictable investment environment necessary to build capacity in these sugar industries and thereby transfer benefits to the widest number of people in these poor countries. Companies such as Illovo Sugar have already invested many millions of dollars in a number of LDC sugar industries. Having taken account of the high investment risks, and having evaluated EU market opportunities, they require the predictability envisaged by the LDC proposal to sustain their current investments and to enable them to commit further investment.

The economies and in particular the administrative capacity of most LDCs are fragile and weak. Against this backdrop, and in a system of quota free and duty free access, the opportunities for arbitrage trading and carousel or swap trading would flourish. Improper trading practices and abuse of rules of origin would be difficult to control, and considerable disruption and instability could result in the EU sugar market, whilst in the LDCs themselves the financial benefits would be trapped in the hands of relatively few traders, rather than filtering down as returns to farmers and producers and the communities in which they operate.

Managed market access under controlled conditions, over a meaningful transition period, would avoid this situation, limit market instability and enable the LDCs to build capacity at both the productive and institutional level. The ability to fully supply domestic and regional export markets could also be developed in this timeframe so as to further sustain and diversify sugar revenues in the LDCs.

The level of price reduction proposed by the European Commission would nullify the LDC's proposal as presented. In addition it is our view that combined with a short implementation period and unchanged EBA regulations, the majority of small, vulnerable LDC producers will be excluded on a cost and freight basis, whilst other LDC producers in a position to do so would have no choice but to maximize export volumes adding further potential for instability in the EU market. Regulated and managed market access for LDCs, together with remunerative prices, would facilitate a fairer spread of market opportunity to all LDC producers through the internal allocation mechanism for quantities currently adopted by the LDCs in solidarity with each other. The ability to establish defined market access for LDCs will also support anti-fraud measures, strengthen rules of origin, and give fair opportunity to all farmers and producers internally within the EU, and in ACP and LDC regions.

The LDCs have at all times held themselves available for negotiation and further clarification on their proposal. We wish to take this opportunity to re-state our readiness to play a meaningful part in the GSP review and in the debate on the reform of the sugar regime. Our view on price reduction is that this should be gradual and modest, which would be possible within the expected WTO commitments of the EU.

Quantitative access for LDCs during the proposed transition period could be accommodated by a modest reduction in EU beet quotas. Furthermore, the raw cane sugar requirements of future new EU Member States will also offer an added market access opportunity.

Our proposal is WTO compliant, within the findings of the WTO Disputes Settlement Panel which has ruled in favour of differentiation on behalf of Least Developed Countries. The maintenance and expansion of preferential access is also consistent with the Doha Development Agenda.

The future prosperity of LDCs is largely dependent on investment from the private sector, reinforced by public/private sector cooperation.

Predictable market opportunities as contained in the LDC proposal would create the right environment for investment and sustainable development.

I thank you.

Annex 2

Address by the Hon Dr Galal Yousif Eldegeir, Minister of Industry (Sudan), Spokesperson for the LDC, 24 January 2005

Mr President, Ministers, Excellencies, Commissioners, Ladies and Gentlemen

I am privileged to address you today on behalf of LDC Sugar producers.

The 50 LDCs, 41 of whom are ACP countries, warmly welcomed the EBA initiative in 2001. The initiative has accorded the poorest countries prospects for duty free access for all exports except arms to the EU market. We count on the initiative to address the problems of LDCs who all face the challenges of poverty and limited development prospects. EBA should enable LDCs to take full advantage of the opportunities offered by the EU trading system and thereby contribute to the socioeconomic development of LDCs which they so desperately require.

LDCs recognize the benefits that could be derived from the EBA initiative, notably in improving productive capacity generating export revenue and attracting investment so necessary for the growth of our economies. With regard to sugar, the initiative, despite the limited quantities made available in the initial years, has enabled many LDC sugar producers to export sugar for the first time to the EU market at predictable and remunerative prices. It has also started to attract much needed investment in the sugar sector and has already been able to contribute to the welfare of the many people engaged in the sugar sector, primarily in poor underdeveloped rural areas.

We have been closely following the proposed EU Reforms to the sugar sector and fully understand the need for these reforms, however we are concerned as to their potential negative impact on LDC sugar exporting countries. The LDC sugar producing states have responded to the proposed EU sugar reforms following the communication of 14 July, having previously adopted a detailed LDC proposal on their own position which was also presented to the EU Commission. The LDC proposal was endorsed by the first LDC Ministerial meeting on Sugar in Brussels in March 2004 and revisited by another Ministerial conference in September 2004. LDC Ministers have engaged in discussions with the EU Commission at all levels and have conducted a number of missions to EU Member States either independently or with ACP colleagues. Up to date the Commission has seen fit not to take heed of the calls from the LDC.

My statement is intended to further explain the LDC proposal and clarify its rationale, and to emphasize the need for more time to adjust and develop LDC sugar industries which generally have immense potential and are seen as being able to contribute effectively to sustainable development in the poorest countries on earth.

THE LDC PROPOSAL

The LDC proposal was officially presented by LDC ministers to Commissioners Lamy and Fischler in Brussels on 3 March 2004. It is intended to create a predictable 'development environment' in order to build on the modest investments already made as a result of the EBA sugar initiative. It will attract future investment that could contribute to the expansion and upgrading of LDC Sugar industries in a more compelling manner and hence contribute to sustainable development.

The LDC proposal, is based on creating a reasonable transition period by deferring the introduction of the existing progressive tariff elimination currently scheduled to commence from 1 July 2006 to 1 July 2016, which is in line with the ACP call for a transition period ending in 2016. This would create a more realistic time-frame to harness the benefits of EBA and enable LDCs to prepare more effectively for further future market orientation.

In the context of the renewal of the generalized system of preferences (GSP) and to improve market access conditions over an extended transition period the LDC proposal envisages a new tariff quota for sugar of LDC origin. The LDCs have been given to understand that amendment to the existing EBA provisions in the context of the GSP regulation would require an adaptation of the Commission's proposal of 20 October 2004 on the renewal of GSP which is presently being discussed in the relevant Council working groups. Although the LDC proposal of 3 March 2004 was presented to Commissioner Lamy personally, we are not aware that the LDC sugar proposal has even been given serious consideration in the discussions on GSP renewal. We request that the LDC sugar proposal be given serious consideration both in the GSP debate and in the ongoing discussions on the sugar reform need not be as severe as proposed by the Commission and could be effected within the EU's minimum commitments in the WTO process, treating sugar as a sensitive product and taking into account the relevant provisions of the July WTO package as regards the need to maintain the value of preferential arrangements.

The consequences of a price reduction as drastic as that envisaged by the EU over a three year period would be to exclude the majority of small vulnerable LDC suppliers whilst encouraging other LDC producers to maximize export volumes. This would undoubtedly increase the incidence of swap trading and open the opportunity of market abuse.

The LDC require a more predictable environment to enable all of them to plan in an orderly fashion and to be able to attract desperately needed investment. Should this not be achieved, then investment in sugar will cease with disastrous consequences for our development.

The benefits of sugar cane as a development crop in rural communities are well-known and the multifunctional role of sugar in our economies cannot be over-emphasized. For many of us sugar cane is not only an ideal crop but often is the only viable crop that can be produced. Meaningful but managed access for our sugar to the EU market at remunerative prices over an extended transition period would consolidate and enhance these fundamentals. The LDCs recognize the importance of the multifunctional aspects of agriculture in the EU, and the role that EU farmers play in that context. Our proposal provides certainty to them and facilitates quota management to enable sugar production to be spread in the fairest possible way throughout the EU.

In conclusion, honourable colleagues, we note with regret that the LDC proposals have not been taken seriously to date by the European Commission despite widespread support by Member States, all 50 LDCs, all 79 ACPs, and NGOs including Oxfam. I assure you Mr President that the position has the blessing of all LDCs, and in order to renew this support, Bangladesh, the UN coordinator of all LDCs is calling for an LDC meeting in the near future. We renew the LDC request for an open dialogue with the EU to work together to secure the benefits to all LDCs of the EBA initiative and to secure for them defined access to the EU sugar market. What we seek is to build on the opportunity which has been created by the EBA initiative to develop our economies. The Commission's proposed reforms would have the opposite and disastrous effect.

Memorandum submitted by Ian Gillson, Sheila Page and Dirk Willem te Velde, Overseas Development Institute (ODI)

SUMMARY

The ACP countries need to decide what they want from trade with the EU, and the best strategy to achieve this. They have several options:

- To do nothing: to use their current access.
- To concentrate on regional negotiations
- To negotiate undifferentiated EPAs as part of a region.
- For the LDCs: to negotiate a separate EPA, either with other LDCs within each region or with all other LDCs in the ACP.
- To negotiate an EPA, whether differentiated or not, then liberalise equally to other markets; this offers the benefits of any net increase in access, without trade diversion.

Timing: Postponing EPA negotiations until after the completion of the WTO round, and of the various regional trading agreements could be a favourable strategy.

Services offer more scope for increasing ACP access to EU markets than do goods, with less need to open ACP markets further.

Agreements should have firm and enforceable commitments, and avoid allowing disputes on trade to affect decisions on aid.

There could be separate agreements, reciprocal and non-reciprocal respectively, between the EU and the developing and between the EU and Least Developed members of each region, preserving a framework of a regional approach. Harmonising the WTO rules on regions by making those for trade in goods consistent with those for trade in services could give useful flexibility.

ACP countries may need assistance in negotiations, but donors should prevent funding assistance from becoming unacceptable intervention.

The use by LDCs of their preferential access to the US for clothing exports demonstrates the benefits of more liberal rules of origin, particularly for small economies.

Reform of the EU sugar regime will benefit some ACP countries, with low costs and the ability to increase exports; it will require some to invest in cost-saving; it will force some to reduce production. The EU can provide long-term assistance by improving market access for other exports, especially tourism, and liberalising the movement of labour. Temporary financial assistance to assist those who lose income and to restructure production is justified as the EU will be ending an international agreement. This could be additional to normal aid. Postponing adjustment would not remove the problem and would impose costs on those developing countries and LDCs that can produce efficiently.

1. What options are available for ACP states under the Cotonou Agreement? Are sub-regional Economic Partnership Agreements (EPAs) the most suitable development tool for all ACP states? What are the alternatives?

The ACP countries need to decide what they want from trade with the EU, and the best strategy to achieve this. They have several options:

- To do nothing: to use their current access.

Most ACP countries already have 0 tariff or preferential access in most of their major markets: the Least Developed Countries (LDCs) full access to the EU under Everything but Arms (EBA) and preferential access to the US, Canada, and Japan; many non-LDC African countries have access to the US under the Africa Growth and Opportunity Act (AGOA); the Caribbean have access to the US and Canada and the Pacific to Australia and New Zealand under special arrangements; all are members of at least one region, and have access to their neighbours.

- To concentrate on regional negotiations, to encourage CARICOM, COMESA, SADC etc, to concentrate on defining their own trade policies, including total or selective liberalisation to the rest of the world, so securing the benefits of liberalised imports, plus access under the existing arrangements.
- To negotiate undifferentiated EPAs as part of a region: leading to partial liberalisation to the EU, and possibly to increased access on services.
- For the LDCs: to negotiate a separate EPA, either with other LDCs within each region or with all other LDCs in the ACP.
- To negotiate an EPA, either separate or undifferentiated, then liberalise equally to other markets; this could secure the benefits of any net increase in access, without trade diversion.

TIMING

The Cotonou Agreement stipulated that EPAs would be negotiated during the period starting from September 2002 until 31 December 2007. Under Article 37 (7) of the Agreement, however, the EU commits itself to examining all alternative possibilities to EPAs, in order to provide the countries which decide that they are not in a position to enter into EPAs with a new framework for trade which is equivalent to their existing situation (ie the *acquis* of Lomé/Cotonou: non-reciprocal preferential market access) and in conformity with WTO rules. This assessment has been postponed to 2006, at the request of the ACP; it could be postponed again until the end of the EPA negotiations.

The ACP countries must, of course, always be prepared for changes in the choices offered by the EU (and other trading partners) as the history of the last four years has demonstrated: Cotonou was signed in June 2004, and then EBA was offered in September; a WTO Round was aborted in 1999, restored in 2001, failed in 2003, and restored in 2004. There is already a history of delays and changes in approach, partly because the Prodi Commission was much less committed to regionalism as an ideal than its predecessors.

One important characteristic of the Cotonou negotiations has put pressure on the ACP to define and defend their interests: there is a clear, virtually month-by-month timetable; the EPA negotiation process has already gathered some momentum. For example, Phase I Negotiations took place during 2003–04, and have now officially concluded, although there are still areas of general ACP interest which will need to be decided. The launch of Phase II negotiations is taking place in each region, and in principle the target remains to complete these in 2007 and begin implementation in 2008. When these dates were set, however, the target date for completion of the Doha round of WTO negotiations was 2005. These dates would therefore have given countries time to consider what the EPA negotiations would need to include to give value added relative to the WTO and would have allowed them to make an informed choice of whether to agree an EPA or remain with existing trade access. That timetable would also have allowed countries with limited negotiating capacity to concentrate first on the WTO, then on the more important stages of the EPA negotiations. Now, the most important stages of the two negotiations are likely to be at the same time, in 2006–07.

The WTO negotiations will deal with most of the same subjects as EPA negotiations, so that they will affect the net (WTO plus) impact of both what the ACP offer to the EU and what the EU offers to them. Any appraisal of EPA impacts must therefore be an iterative process that cannot be fully understood until the Doha Round is completed.

There are other uncertainties. The EU is also negotiating with other, non-ACP, groups and countries. At present the negotiations with MERCOSUR (the Common Market of four countries in South America) appear to have stalled, but will resume in March 2005. Other negotiations, with Asian countries, are still at an early stage, but these could move further over the period of EPA negotiations. Any FTAs (Free Trade Areas) reduce the potential trade access value of either EBA or an EPA by reducing the degree of preference which it offers with respect to the rest of the world. This was well recognised in southern Africa when the EU signed its agreement with South Africa. And each of the EU's FTAs sets precedents for those that follow. The types of policy conditionality that first appeared in the South Africa agreement, for example, have influenced what the EU expects from EPAs. If there are innovations in including new issues in any of the other agreements under negotiation (MERCOSUR is resisting this; it is not clear what will happen in the others), these could influence what the EU asks during the EPA negotiations. Although the impact is more indirect, examples set in other FTAs, not involving the EU, will also influence what is seen as the norm for FTAs, particularly those set in other developed-developing country FTAs like those signed by the US. The increasing strength of investment provisions, the introduction of labour and environmental provisions, and the conditions on governance found in these influence what is expected. On the one hand, there would be advantages in delaying EPA negotiations so that the full effects of the others are clear, making the calculation of EPA effects more certain. On the other, the tendency for agreements to build on preceding agreements means that waiting may reduce the ACP countries' ability to influence the content of EPAs and increase the restrictiveness of any agreements. Some regions of the ACP have clearer interests in the EPA negotiations than others. The Caribbean countries do not have EBA to rely on, and they need agreement with the EU as a counter balance to their negotiations with the US. The African and Pacific regions have reasons to "wait and see". Postponing EPA negotiations until after the completion of the WTO round and of the various regional trading agreements, while using existing access, could be a favourable strategy.

POTENTIAL CONTENT OF AN EPA

A basic characteristic of the negotiations is that the EU doesn't want much from them. There has never been much mercantilist interest in obtaining access to ACP countries. Only small or weak economies were allowed to be ACP members, so there are few large markets (Nigeria the only exception), and few are rapidly growing. There is some interest in not losing access relative to other exporters (notably to the US in the Caribbean, and, a weaker threat, in Africa under AGOA). While this means that any ACP group will not face strong demands for opening their markets, it also means that it will not have any strong leverage to extract gains from the EU.

It was recognised early (even in studies commissioned by the EC itself) that there would be significant costs to any ACP region in signing an EPA, and uncertain gains, even before the EBA option existed. The value of any access could not be predicted: as MFN barriers come down, any regional or preferential access will be worth less; there were clear losses in tariff revenue and in trade diversion from offering discriminatory access to the EU countries; and the conventional welfare gains from liberalising ACP imports could be secured and increased through unilateral liberalisation. The ACP countries were therefore faced with quantifiable losses and uncertain gains.

As a counter to this, the EU has increasingly emphasised that there would be other "non-trade" elements. The ACP mandate includes, although it does not have specific requests in, access on goods and services, subsidies, technical assistance rules of origin, customs procedures, safeguards provisions, assistance in revising ACP internal legislation, intellectual property, standards, SPS, infrastructure development, commodity processing, and compensation for costs of adjustment (ACP 2004).

Goods

The EU's intentions about the content of EPAs have evolved. At the time Cotonou was signed, they were seen as simply Lomé access for the ACP regions into the EU (so still slightly limited) and access subject to significant exclusions for "sensitive" products (perhaps up to 10% of trade) for the EU to the ACP regions. All ACP countries would have had an incentive to negotiate them because without them they would revert to ordinary GSP access and it was assumed that continued better access would be "worth" at least some concessions on access by them to the EU. The offer of EBA to the Least Developed countries, however, changed the nature of the negotiations. The more than half of ACP countries which are Least Developed have much less to lose from not signing. Not only does EBA offer them similar access (fewer exclusions, slightly worse rules of origin), but it is clearly incompatible with the maintenance of the current sugar quota system, so even the countries which had special reasons for wanting to negotiate continued special arrangements with the EU lost this incentive (see comments on Question 4). One clear advantage does remain with EPAs: they would be indefinite and contractual, but this immediately suggested the alternative path of negotiating to "bind" the EBA offer. For non-LDC ACP countries, the new (October 2004) GSP

regulations would give them better than current GSP access, but with some restrictions relative to Lomé access. The new provisions to avoid graduating small countries might (if they are not challenged in the WTO) protect the high-income Caribbean from losing access.

While there would be formal agreement on reciprocity, there is increasing emphasis on a slow transition for all members of an EPA in removing their controls on EU imports, and LDCs would have a longer period than others. This suggests that LDCs might have to offer very little, if anything, immediately on access for goods.

The rules for goods in regional arrangements (GATT Article XXIV, carried over into the WTO) require that “substantially all trade” be covered. This has never been defined, although the EC chooses to interpret it as 90% of tariff lines and argues that this can be an average of the exclusions of the members. As EBA means that there will be no exclusions for its imports from LDCs, this interpretation would allow LDCs to exclude up to 20% of imports which for most would include all significant high tariff imports from the EU. This interpretation may be legally challenged if a particular exporter finds itself badly affected, as India challenged one of the EU’s other special preference arrangements. This is less likely for LDCs than for the EU’s agreements with larger countries, but could happen. For non-LDCs, the EU is likely to offer close to 100% access (at least using its preferred measure, of the percentage of actual flows, not potential flows), so the impact would still be limited. Many ACP countries, however, particularly in Africa, are disproportionately dependent on the EU for export markets for historical reasons. To the extent that an EPA encouraged them to maintain or even increase their dependence, it would be increasing their vulnerability to a single market; this is not a suitable development strategy.

Services

In the EU mandate adopted in early 2002, the most significant addition compared to the initial descriptions was a strengthened emphasis on services, with mentions of information and communication and tourism. There is now to be “progressive and reciprocal liberalisation of trade in services . . . consistent with . . . Article V of the GATS” (EC 2002).

The ACP as an organisation has been hesitant on services, and there have been few proposals except in the Caribbean, but this seems to be more because of lack of knowledge and preparation than outright opposition, so that it is possible that there will be increasing interest in including something on these.

Several African countries have opened up some services extensively beyond their WTO commitments. They could make a substantial offer of liberalisation to the EU without going much beyond current arrangements. Most ACP countries would gain by seeking substantial access for labour (Mode 4 in GATS terms), which is not explicitly mentioned in the Cotonou agreement, but which the EU has now agreed to discuss in the EPA negotiations. Some African regions, for example, ESA (2004), have placed this on the agenda. EU barriers to this are particularly serious because of restrictions on short term workers and economic needs and other requirements for those that are permitted (te Velde, 2004). Restrictions tend to be tighter on less skilled workers, so that making access more equal across different skill levels would improve ACP access. There are still some country-specific regulations among EU members, so that this negotiation would need to allow for that. A services agreement would probably offer the greatest chances of gains in the EU market. A practical problem would be the lack of progress at regional level, so that it would be difficult to have a regional negotiation. Only CARICOM has moved to a common position on services in the WTO. The services which countries might want to include might be different at regional and EPA level, so a country-by-country agreement might be preferred. An agreement could take the form used for GATS, with each country plus the EU offering to open specific services, and with this negotiation happening at country level, potentially also with differentiation such that the EU opens more to LDCs than to others. (For a more detailed discussion of services, see Appendix.)

Enforcement and dispute settlement

As the ACP regions will be weaker than the EU, securing firm and enforceable commitments will be one of their principal aims in an EPA. The interpretation of what the EU is proposing varies. In its other FTAs, which are not with regions, the EU has had some elements of “cross conditionality”, by which failure on the part of one of the signatories to observe one element of the agreement could trigger retaliation on another. This is particularly sensitive and potentially uncertain where there are clauses on good governance or democracy. ESA (2004) asks that the human rights and corruption clauses in the Cotonou agreement not be applied to EPAs, but only to political cooperation.

For a regional agreement, there is an additional question of whether any dispute, and therefore retaliation, for example through a reduction in aid, would be treated as between that country and the EU or between the region and the EU. As the legal instrument is likely to be an agreement which each country, not the regions, signs⁶⁰ it would be more consistent to treat disputes as between each country and the EU.

⁶⁰ Only a customs union could sign a collective trade agreement with the EU, and the ACP regions are Free Trade Areas, some with customs union as an objective. Therefore, the legal form of an EPA is likely to be an FTA among the EU and individual members of each ACP region.

It would not be impossible to include in such an agreement an authorisation to take action against a third country if two countries are in dispute, but this would be highly unusual. Applying it to aid would also subordinate aid criteria such as poverty to a trade or governance condition, which would go against the normal approach of aid agencies.

ORGANISATION OF THE ACP FOR EPAs

There could be separate agreements, reciprocal and non-reciprocal respectively, between the EU and the developing and between the EU and the Least Developed members of a “region”, preserving a framework of a regional approach, perhaps with provision for countries to “graduate” to the full agreement. This would present clear difficulties to the WTO rules at present, but may not be impossible to negotiate. The negotiating mandate contains provision for special treatment for Least Developed, small, landlocked, island, and post-conflict countries so that any principle of universality has already been dropped⁶¹.

LDCs

An alternative approach, if two-track regions were not possible, would be separate agreements of the LDCs in each region with the EU and of the non-LDCs with the EU, with rules of origin that allowed cumulation and perhaps a common structure for any regulatory elements. This is a possibility to be explored if the regional negotiations do not progress, and if, in 2006, when the provisions for the non-LDCs are reviewed, a substantial number of them take their option of asking for a different agreement from an EPA. On services, it might have the advantage that, as with EBA, the EU could offer substantially better preferential arrangements in services to LDCs.

ACP

For some areas, as was agreed when the first year of EPA negotiations was designated to be at all-ACP level, this is the obvious common interest group. The ACP has identified some issues which continue to require all ACP negotiation, including adjustment costs, investment, competition policy, government procurement, commodity protocols, data protection, dispute settlement, and rules of origin. Other issues clearly only to be dealt with at ACP level include the sugar protocol and dispute settlement. Some need probably to be discussed both there and at regional level, including which areas should be covered and adjustment costs. It will be necessary in the end to decide whether these common interests can be best encouraged by having common elements in a number of EPAs or having an ACP-EU agreement for those issues and regional agreements for the others. The problem with the common provisions solution is that agreements rarely stand still, and elements that are common when they are initially signed could be renegotiated, in inconsistent ways, as different regions move in different directions. There are, of course, advantages in such flexibility, but it may be necessary to institutionalise the need also to look at all-ACP interests.

Sugar producers or other special interest groups

If a solution to the different levels and interests within the ACP countries is found in subject agreements, for example regulations at all ACP level, services for the LDCs, etc, it might seem reasonable to negotiate as interest groups on goods. This would not, however, be WTO compatible (because of the substantially all trade rule).

WTO RULES

At present, most ACP regions are effectively exempt from WTO scrutiny under the Enabling Clause which offers special treatment to purely developing country regions. This allows regions to have more limited coverage than “substantially all trade”. SADC, because it includes South Africa, is being notified under the more stringent rules of Article GATT XXIV. Any agreement of an ACP region with the EU would also come under this.

For goods, there are no special rules for regions which include developed and developing countries, but Article V of the General Agreement on Trade in Services (GATS), which was adopted after such regions had begun to emerge, does allow asymmetric liberalisation and absence of “substantial coverage”. Therefore, an agreement that covers only some services would be allowable. Relaxing the rules for goods could make it easier to have an asymmetric relation with the EU, but could also make it easier for other regions to take measures that could damage ACP countries. There are many more regions of which they are not members than those of which they are members. The simplest proposals are to harmonise the treatment of goods and services by introducing a provision into Article XXIV to cover mixed regions. This could modify the rules

⁶¹ In Cotonou, the “Least Developed” are specified by list, not by reference to the official UN list. At present they are in fact the same, but this leaves open the possibility of conflict in the future: WTO rules use the UN list.

on substantially all trade, the limit on the transition period (limited to 10 years, *de facto* although this can be prolonged if a region requests it), and the rule that the restrictions on other countries should be “not on the whole higher” thus permitting different rules of origin.

EPAs AND DEVELOPMENT

For many countries, particularly in Africa, the principal policy needs are domestic. Therefore, while they must give sufficient attention to the EPA negotiations to avoid accepting undesirable changes, this is not as much of a priority as domestic policy, the WTO and its existing regional arrangements.

While there are important technical questions which can be discussed according to a timetable and managed at regional and official level, countries must retain clear political (ministerial) interest and control of the negotiations until the answers to the principal questions can be settled: will they gain sufficiently from an EPA relative to the trade arrangements they have already to be worth any costs? What is the best group to negotiate with? The first cannot be settled until the WTO Round is complete and until the coverage of the EPA is clearly specified (in particular, which services); the second is more political than technical, this means continuing high-level supervision.

This logic suggests that the negotiations could and should take longer than has been allowed. The obvious negotiating reason is the delay in the WTO negotiations: if the EPAs are to be “WTO plus”, negotiators have to know what the base is on to which they add the “plus”, and any agreements need to be consistent with any new or revised WTO rules. The lack of capacity is another reason, both to avoid overburdening the limited number of officials and to give those who are negotiating time and experience. Evidence on WTO negotiations suggests that delegations with more experience perform better, and as all negotiations with the EU began only in 1997, following the Green Paper, all ACP negotiators are inexperienced in this context.

Countries cannot allow trade negotiations to be over-influenced by donors who are themselves trading partners. The EPA negotiations have been highly unusual in the degree of contact and direct financing between the negotiating parties, the EU and the ACP countries. In other developed-developing country regional negotiations, when there have been countries that needed substantial assistance, there have been mediating organisations (such as the Inter-American Development Bank in the Free Trade Area of the Americas negotiations). In EPA negotiations there has been direct assistance, EU presence at consultative meetings, and direct funding, as well as the indirect and less open to abuse arrangements through the EU-ACP Project Management Unit, the PMU. There is a need for technical discussions among officials and member countries, and in any negotiation good relations are essential, but it should be clear that these are negotiations, from opposite sides of the table, not areas where technicians would work together. The rules should prevent funding assistance from becoming unacceptable intervention. Other donors, within the EU and other preference-givers, are also active in trade support, and their interests must also be treated with caution.

The high dependence of regional organisations on donor funds suggests that these organisations are given more priority by donors than by their members. If they are of value to their members, the members could contribute to them, out of donor funds if this were permitted. This would both allow member countries to decide how much priority to give to them and make them more directly accountable to their members in their activities.

Although the direct revenue costs of an EPA could be limited by excluding high-tariff imports, they would come on top of the much larger losses from regional integration, so that there may be a need for support for the revenue lost. This is particularly true if an EPA would benefit some members of a region, but not all. If it appears that some countries would have major benefits from an EPA, and if all countries want also to preserve a regional approach, then there would be a case for donors to provide assistance to the losers to adjust to the revenue consequences.⁶²

2. What are the implications for the ACP states of including the “new issues” of investment, competition, government procurement and trade facilitation in the EPAs?

As the EU stresses, an EPA would not need to be confined to the same issues as the old Lomé agreements, but could include services, as discussed above; the same trade related extensions as the WTO (intellectual property, trade facilitation, etc); and also those not yet covered by it, such as investment, competition policy, government procurement, the relationship between trade and environmental rules, and labour conditions.

⁶² In the WTO negotiations, the problem that what would be a beneficial settlement to most people in developing countries might cause damage to a few is now recognised. The principal example is from preference erosion: that any general liberalisation, while benefiting those countries which were not previously beneficiaries of major preferences, might damage some who were.

TRADE FACILITATION

There are no specific proposals on this, but both the EU and some ACP regions, such as COMESA and CARICOM, offer examples of how regional coordination can reduce the costs of trading, through common documentation, common transit insurance regimes, etc. This proved a useful and low cost first step in ACP integration, and might be a possible focus for EPAs, replacing the emphasis on tariff negotiations.

NON-WTO, TRADE RELATED ISSUES

The EC has argued strongly that EPA agreements should include investment, competition policy, government procurement, environmental agreements, and labour rules, ie all the additional trade related issues on which it was not able to secure agreement within the WTO. These are all issues which the EU itself has decided to regulate, at least in part, at regional level, and it therefore considers them a necessary part of regional coordination. It also argues that they are relevant subjects for development. The arguments are that investment and competition, and therefore rules, are particularly important for small countries, even if larger countries are right to exclude them from the WTO, and that the EU and the ACP share common values, so can reach agreement more easily than in the WTO.

The EU, however, has a much higher share of intraregional trade and other contacts than any EPA would have; the EU has only added these responsibilities as it has acquired experience of dealing with trade integration and as integration has deepened; they were not part of the Treaty of Rome in 1957; some ACP regions seem to be moving towards these, but are not treating them as basic at the beginning of trade integration. The arguments for incurring the potentially higher costs of including them now in an EPA are therefore weaker than for including them in the EU. Their inclusion has already been subject to disagreement in the Joint ACP-EU Parliamentary Assembly (Julian, March 2004).

It is not yet clear whether what the EU wants is more than informal cooperation. If strong new obligations were on the table, these could restrict countries' ability to design an economic policy; this might not restrict current policies, but would be a constraint on future policies. On the other hand, they might help countries to design internationally compatible policies at an early stage of development. Which argument prevails would depend on countries' general development policy.

3. The extent to which rules of origin discourage some LDCs from using the Everything But Arms agreement and membership of an EPA will compel them to open their markets to the EU, what options are available to such states?

While the rules of origin (the requirements imposed on the use of imported inputs by any regional or preferential agreement) of the Cotonou agreement are less onerous than those imposed by the EU in its FTAs or for GSP, they are more restrictive than the rules offered by the US under AGOA, the African Growth and Opportunity Act, to "low income" African countries (a broader category than Least Developed), particularly for clothing. As many small African countries can be competitive in clothing but do not have national textile industries, this has meant that exports to the US have increased much faster since the introduction of AGOA than have exports to the EU. Liberalising EU rules could not only increase ACP exports, but help ACP countries to move more into manufactured exports, reducing their vulnerability to primary commodities.

4. After the WTO ruling against the EU Sugar Regime, and by implication the ACP Sugar Protocol, what adjustment mechanisms are possible for states heavily dependent on preferences?

The common organisation of the market in sugar (COMS), or the Sugar Regime, was first introduced in 1968. Although it is part of the Common Agricultural Policy (which has undergone numerous reforms since its creation in 1958) the basic market support system for sugar has changed very little. The COMS provides price support to producers through measures to control the supply of sugar to the domestic market (restrictions on sales, import quotas and requirements to export fixed quantities of sugar), direct subsidies for production and export, and intervention buying if the domestic price of sugar falls below an intervention price. The COMS is financed primarily by EU consumers (who pay higher than world prices) and levies on EU sugar production (paid to the EU budget) intended to cover the cost of exporting any surplus production over domestic consumption. In 2004, the EU budget for the sugar sector was €1.721 billion.

The first change to the COMS occurred in 1975 following the UK's accession to EU in order to take account of its commitments to a number of former colonies (under the Commonwealth Sugar Agreement) and at a time of world sugar shortage and brief Third World commodity power. Annexed to the Lomé Convention, the Sugar Protocol provides for fixed quantities of preferential imports of cane sugar (raw or white) to the EU market at guaranteed prices from 19 ACP countries (and India). The terms of the initial Sugar Protocol were not amended when the standing agreement between the EU and the ACP was renewed at Cotonou in June 2000.

The total transfer to the ACP Sugar Protocol countries associated with quota access to the protected EU market is about US\$ 500 million or about 60% of the value of these countries' sugar exports to the EU. Mauritius receives over a third of the total transfers and the five largest quota-holders (Mauritius, Fiji, Guyana, Jamaica and Swaziland) receive over three-quarters of the total transfer. The Sugar Protocol makes a significant contribution to foreign exchange earnings in Guyana, Mauritius, Fiji, Swaziland, and St Kitts, where it accounts for over 5% of total export earnings. In relative income terms the transfer arising from the Sugar Protocol is most important for Guyana, contributing approximately 10% to GDP.

Although the Sugar Protocol does not expire and cannot be changed unilaterally, the COMS to which it is linked and on which it depends can be amended. Unilateral decisions to change the COMS, which affect the EU price of sugar, will have an impact on EU-ACP sugar trade. There are a number of pressures for reform. First, concerns both over the high cost of the CAP to EU consumers (mainly food processors) and the need to accommodate new Member States in Central Europe which are beet producers (especially Poland) have resulted in the Commission making proposals for reform of the COMS to begin in 2005. The main impact of the reform will be to reduce the level of support prices by a third over three years. Second, on 4 August 2004, a WTO panel ruled in favour of Brazil, Australia and Thailand condemning EU export subsidies on sugar. The complainants had focused their case on showing the EU to be subsidising sugar exports excessively in violation of their WTO reduction commitments under the Uruguay Round Agreement on Agriculture. As part of the ruling, they successfully argued that imports (1.6 million tonnes) of raw sugar from the ACP (and India) were being refined in the EU, treated as domestic surplus and re-exported with the aid of subsidies. If the EU decides to implement the panel decision this could reduce the guaranteed prices in the COMS. However, the EU has already decided to appeal and, if this fails, implementation of any changes to comply with the ruling could be drawn out for several years. Third, the Everything But Arms Initiative will allow unrestricted duty-free access to the EU market for sugar produced in Least Developed countries by 2009. These imports are currently subject to quotas. EBA benefits Least Developed ACP countries with no previous allocation under the Sugar Protocol against the quota holders in the Caribbean, Mauritius, Swaziland and Fiji because it will not be possible to increase sugar imports from LDCs without reducing EU production, Sugar Protocol quotas or guaranteed prices. Finally, a longer-term threat to the COMS is the negotiation of free trade agreements between the ACP and the EU to replace non-reciprocal preferences under the Cotonou Agreement. Such Economic Partnership Agreements could extend duty free access to non-Protocol sugar-producing countries.

Reform of the COMS will reduce the real price offered to ACP Sugar Protocol producers. This will result in sugar production in a number of higher-cost ACP Protocol countries (Barbados, Côte d'Ivoire, Jamaica, Madagascar, St Kitts and Trinidad) becoming less profitable without effective investment in cost-saving production. Other countries (Guyana, Fiji and Mauritius) may have to reduce their production levels in order to concentrate on their most lucrative markets and efficient producers or restructure in order to remain competitive. However, production in a number of ACP countries which are classified as Least Developed (e.g. Republic of Congo; Zambia) or with sufficient exports to non-EU markets (Côte d'Ivoire) may gain from an EU-reform-induced rise in the world price of sugar or unlimited access to the EU market (via Economic Partnership Agreements or the Everything But Arms Initiative).

The European Commission has indicated that it will be proposing specific measures to assist the Sugar Protocol countries in adjusting to changes in the COMS. In determining whether such an offer for transitional assistance is justified, an important consideration is each country's fiscal, balance-of-payments and debt positions. This is particularly relevant to the Caribbean which, although containing seven of the 10 most heavily indebted countries in the world, consists mostly of middle-income countries which are not among the poorest. However, assistance can be justified under the EU's international obligations because it is partially withdrawing from a binding undertaking which was of unlimited duration. In its absence, countries suffering from the change in the regime may attempt to delay reform to the detriment of those countries which stand to gain.

Transitional assistance measures could take the form of trade or financial mechanisms or a combination of both. Delaying reform cannot be classified as transitional assistance since countries must still face the costs of transition. Nevertheless, postponing reform of the COMS is attracting increasing support from a number of Caribbean countries and sympathy from the European Commission. On the one hand, the Caribbean ACP argue that costly restructuring and sugar-related diversification efforts have already started in a number of countries (mostly so in Guyana, to some extent in Belize, but less so in Jamaica). The cost savings from these efforts are still coming into effect and will not be fully realised by 2005 (in the case of Guyana they will be realised around 2007). In addition, loans (financed by current income transfers) have already been secured to make the necessary investments. On the other hand, delaying reform of the COMS would be unsustainable given the pressures for reform and the widespread global view that the COMS distorts international trade and is developmentally wrong because it adversely affects those producing-countries (often poorer than in the Caribbean) that do not benefit from the preferential arrangement. Beyond delaying reform of preferences, options for trade-based assistance are available. These would improve market access for other products, especially services (eg tourism) which could encourage diversification into more profitable activities. There are also high estimates for potential developing country gains arising from developed countries liberalising mode 4 (temporary movement of natural persons) under

the GATS. If mode 4 liberalisation were possible, such gains could reduce the net losses for a number of ACP sugar-producing countries, but would require the EU's Member States to show unprecedented political tolerance in allowing increased imports of foreign labour.

The EU's commitments under the Cotonou Agreement to ensure the continued viability of the Protocol sugar industries will be difficult, if not impossible, to maintain in higher-cost countries following reform of the COMS. Other solutions must be found that do not suffer the threat from future preference erosion. One option would be for the EU to abandon its past reservations and to accept the need to provide some form of direct aid to sugar producers to compensate them for loss of preference. There are, in principle, two (not mutually exclusive) ways to use transitional assistance for preference erosion arising from reform of the COMS.

First, compensation could be provided for lost income transfers arising from preference erosion but there is no justification on welfare grounds to give additional income to groups who are damaged by trade over those who are damaged by other shocks or are simply poor. Compensation also perpetuates dependence but at a national level this is often accepted and satisfactory since it can be used to pension off employees in declining sectors. Moreover, compensation may actually provide adverse incentives if it is used to delay restructuring and diversification.

Second, support could be provided for restructuring production either to increase the competitiveness of the sugar sector where production remains viable (including the development of branding and niche marketing opportunities) or to develop new sectors. Niche markets (such as Fair Trade or organics) provide a price premium which could allow some ACP to maintain production. In the long run, however, diversification into other activities is the best strategy for high-cost ACP sugar-producing countries to reduce their dependence on preferences following reform of the COMS. The main benefits of diversification away from sugar (which also applies to primary commodities in general) would be reduced risk and more stable export revenues. The Caribbean has already shown some success in diversifying into tourism and financial services (especially in the Windward Islands where the growth of tourism has more than offset the decline in banana export earnings resulting from successive revisions to the EU's Banana Regime).

Financial assistance could be provided by increasing aid, including through the IMF's Trade Integration Mechanism, but this might not be justifiable since the allocation among countries would need to be based on trade factors (eg loss of income transfers) which could conflict with traditional aid criteria (eg by level of development). Alternatively it could be made through the creation of a new fund in the form of special payments (like the Global Environmental Fund) and administered multilaterally (eg by the WTO) or, if such a solution was found not to be possible in the timeframe available, bilaterally between the EU and ACP.

A crucial decision would concern the length of the transition period and duration of support. On the one hand, there are arguments that preference erosion is permanent, in contrast to temporary balance of payments shocks (like those for commodity price volatility or natural disasters), and that permanent differences in the structure of some economies (vulnerability, smallness, remoteness) serve to raise the costs of production (and trading) obstruct the reallocation of resources into new sectors and reduce the number of diversification opportunities. On the other hand, trade policy is not permanent and cannot be treated as such. Expectations will adjust following the reduction of preferences and economies will restructure. An adjustment period of 10 years, with transitional support declining in a pre-determined and predictable way, has been proposed as a reasonable estimate but some countries will be able to adjust more quickly than others.

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Appendix

Services and ACP-EU Economic Partnership Agreements

The Cotonou Partnership Agreement (CPA), signed in 2000 and ratified in 2003 by a sufficient number of states, allows for the negotiation of Economic Partnership Agreements (EPAs) between the European Union (EU) and African, Caribbean and Pacific (ACP) countries in the area of services.

EU-ACP wide phase 1 negotiations started in Sept 2002; Regionally based phase 2 negotiations launched in 2003 by ECOWAS (+ Mauritania), CEMAC (+ Sao Tome), and in 2004 by ESA and CARIFORUM (CARICOM + Dominican Republic) and others (in other Africa, Pacific). Negotiations are set to be concluded by December 2008.

Key provisions on services include

- Extend EPAs to encompass the liberalisation of services in accordance with provisions of GATS (CPA, Art 41.4);
- Reaffirmation of GATS commitments (41.2), progressive liberalisation (41.3) and EC support for ACP export capacity (labour, business, distribution, finance, tourism, culture and construction) (41.5);
- Need for Special and Differential Treatment (SDT) for ACP suppliers (41.2 and 41.3);

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- Special sectors: Maritime Transport (Art 42) and ICT/Telecommunications (Art 43), and Tourism (Art 24).

Phase 1 negotiations have so far concluded that services liberalisation in an EPA should be progressive, based on a positive list, adapted to the level of ACP countries and their sectors and specific constraints, and underpinned by principles of S&D, asymmetry and positive regional discrimination. The EC agreed to discuss liberalisation in mode 4 (temporary movement of natural persons)⁶³ in the context of EPA negotiations. This issue is sensitive for the EU but crucial to the ACP. The EU and the ACP also agreed that support for the development of services sectors should be provided to ACP countries within the context of EPAs, but there is disagreement over the need for additional funds which can be used flexibly and rapidly (ACP) as opposed to no additional (EU) beyond existing EDF commitments. Finally, while the EU argues for a GATS-plus agreement, the ACP group is unlikely to want to go (significantly) beyond commitments in the GATS.

Several options remain for Phase 2 negotiations, which include

- Do nothing: no pain, no gain.
- No services agreement but with focus on SDT.
- Reaffirm GATS commitments under Cotonou and emphasise SDT (safeguards, funds, etc); pressure to sign Telecommunications annex.
- GATS plus services agreement with new commitments by both ACP and EU, and with SDT.

There will be advantages and disadvantages associated with each choice. Trade liberalisation with an appropriate regulatory framework is generally associated with gains, but these may not occur in each sector, country or group of countries. In some cases there may be enhanced export opportunities, but in others the domestic services capacity or its export capacity in the region may be at risk through trade liberalisation. It is thus important to examine which options would provide the best outcome.

On the basis of existing EU trade agreements with developing countries it is clear that the contents of services agreements differ and thus these are in principle negotiable:

- Mode 4 provisions are more free in EU-CEECs (or CARICOM) than in EU-MEXICO or TDCA.
- Some Mode 3 and investor protection provisions pre-establishment for EU-CEECs and EU-Chile.
- Government Procurement included in few.
- Depth of commitments varies considerably, but is reciprocal, subject to implementation periods. Limited depth in eg TDCA with South Africa.

EPAs aim to be WTO consistent. There are provisions in the General Agreement for Trade in Services that would most likely make EPAs WTO compatible while still including the possibility for offering flexibility (or special and differential treatment) to the ACP in terms of coverage and removal of discrimination (GATS article V: 1 & 3). However, since the Council of Trade in Services has not yet ruled on any regional service agreement it is impossible to be more precise.

The Caribbean (as is the case for many ACP countries) are involved in a number of services negotiations

- CSME—the Caribbean Single Market and Economy which include a negative list (ie it has a list of restrictions which member states will remove according to a fixed schedule until 2005. Some countries are moving faster than others.
- FTAA—Free Trade Area of the Americas which includes a draft chapter on services, but proposals by Caribbean are modest—was scheduled to be finalised in 2005.
- Bilateral negotiations such as Caricom-Costa Rica/Canada.
- GATS 2000 which is part of the Doha single undertaking; this has included modest offers by St Kitts and Suriname, while EC has made request from 11 Caribbean countries—scheduled to be finalised by 2005.
- CARIFORUM-EC EPA negotiations until end of 2008.

The combination of these “negotiating theatres” requires a focused and consistent approach, where sequence is important. While there may be barriers to services exports to the EU, it may be that the reduction in such barriers can be negotiated under GATS (through own or other countries’ interests and requests). On the other hand, some services could be better treated as an EPA issue. There also appear to be direct links between the FTAA and EPA: according to CPA Annex V, Art V, offers to FTAA would need to extend to the EC.

⁶³ Mode 1. Cross-border supply: when a service crosses a national border. An example is the purchase of insurance or software by a consumer from a producer abroad.

Mode 2. Consumption abroad: when a consumer travels abroad to consume from the service supplier, such as in tourism, education, or health services.

Mode 3. Commercial presence: when a foreign owned company sells services (eg foreign branches of banks).

Mode 4. Temporary movement of natural persons: when independent service providers or employees of a multinational firm temporarily move to another country.

One issue emphasised in the CPA is the need to apply SDT to ACP suppliers. It is important to examine how this can best be operationalised eg by mode, sector, or country?

- Financial support for services export capacity building (eg services export promotion in ITES, or compensation for brain drain?).
- Facilitate recognition of professional credentials using one-stop shops (EUROPASS and ACPPASS).
- Information centres in and for ACP service exporters.
- Increase technology transfer to ACP using “home country measures” (eg PROINVEST, EIB INFAC).
- Full credit for ACP autonomous liberalisation.
- Fewer or no new services commitments by ACP (affirming GATS commitments).
- EU commitments in areas of ACP export interest.
- Mode 4 for less-skilled workers; determination of quotas: ACP business travel card (see Box 1).
- Safeguard and remove mode 1 (and 3) commitments in various sectors.
- Inclusion of (parts of) EU government procurement.
- Operationalise Emergency Safeguard Measures.
- Flexible implementation time period (eg recognition of credentials, inventories of trade rules required for progressive liberalisation).

In order to obtain at least modest gains from a services agreement, the ACP regions would need to table specific SDT options: requests for the lifting of certain barriers in the EU, for resources in specific areas, etc. Now is the time to begin thinking about which specific options are likely to be most effective, considering that this process may be lengthy one. It is potentially costly to wait and be unprepared until other have been finalised, as different requests (for the lifting of barriers, or other SDT options) can be made under Cotonou while the end of other negotiations are not in sight. It would also take time and effort to formulate and assess the costs and benefits of national and regional offers and requests on full or partial liberalisation in certain sectors or modes.

BOX 1 INTRODUCING AN ACP BUSINESS TRAVEL CARD

The EU restricts the temporary movement of various categories of natural persons in GATS mode 4. In particular, medium to lower skilled workers from the ACP will find it difficult to enter the EU to supply services. Some higher skilled workers will be subject to quotas. Some new thinking is required so that the EU admits temporary movement of natural persons in all categories as long as some basic conditions are fulfilled. It has so far not been advanced, but a proposal to set up an ACP business travel card may help to facilitate and operationalise market access in mode 4. As a similar example, the APEC business travel card has been successfully introduced. Under an ACP business travel card there could be

- Visa free or visa-at-border entry for business development purposes,
- A multiple-entry visa,
- Common service standards for processing (minimum time) of temporary entry visa,
- An expanded range of eligibility for professions under “business visitor”,
- An expanded range of eligibility for support staff, in particular applying to less-skilled workers.

There could be a pilot scheme running for a number of years (covering certain ACP countries, regions or sectors). Cardholders would be required to present their passports, but not required to submit separate applications for business visitor visas. Participating economies would commit to implementing the scheme and would be free to maintain existing visa requirements for business visitors. They would also have the responsibility of avoiding abuse of the ACP business travel cards by registering bona fide ACP employers (and avoiding overstaying temporary entry). All economies would retain the right to refuse an individual without providing reasons, or to refuse entry to ACP Business Travel Card-holders at the border. The concept could be introduced at the ACP level, but the precise implementation could be left to regional negotiations, as ACP regions are interested in different services sectors.

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Memorandum submitted by Adrian Hewitt, Overseas Development Institute (ODI)

Unlike the four previous Lomé Conventions, Cotonou in its trade particulars is essentially “an agreement to agree” post-2008 arrangements. So the temptation to prevaricate and to sustain or perpetuate existing rent-seeking arrangements as long as possible may be tempting for either or both sides. Such a stance however would be developmentally damaging to the ACP countries themselves if it can be shown that restructuring is overdue, and to the other developing countries, on the grounds that any special trade preference is a distortion disadvantaging those non-preferred.

However, the intended introduction of EPAs does introduce three new elements which are likely to be unwelcome to ACP countries accustomed to special treatment by the EU for the past 29 years (and by some of its Member States, and in some cases, since before then).

First, the the abandonment of non-reciprocity. ACP countries will be extremely reluctant to offer the vastly more developed and competitive EU countries preferences, especially if complete symmetry is demanded, when the ACP states have been accustomed to receiving autonomous and unreciprocated preferences for the past three decades. Many will prefer not to sign unless offered additional incentives or compensation. They will also realise that what they offer in terms of (reciprocated) market access to the EU, they will have to offer to the other big players such as the USA, Japan, and nowadays even Brazil and India too. Under the present proposals and with EBA (the EU’s Everything but Arms) applying to 39—ie exactly half—of the 78 ACP countries which are classed as Least Developed, those first 39 least-developed can simply risk opting for an EBA which they hope to be durable, and not too constrained by rules-of-origin, while the other 39 developing—including countries like Kenya, Guyana and Fiji whose income levels and development is not markedly superior to their least-developed and often regionally-integrated neighbours—will suffer new discrimination even if they sign up for EPA.

This is because of a second change: whereas Lomé strengthened the solidarity between ACP states by asserting (in Article 174(2)(b)) non-discrimination between ACP states, the Cotonou agreement has eliminated this article.

Third, the EU’s new policy conditionalities may require ACP governments to forgo their aid and trade entitlements if they do not comply with certain norms of “good governance” and even sign up for certain treaties which may be internationally contested; ACP governments are likely to have differing views on the desirability of complying in return for (perhaps reciprocated) trade preferences or maintenance, for a few more years, of traditional post-colonial privileges.

The cumulative effect of these three elements will however be to drive a wedge through the middle of the ACP Group, perhaps most obviously between the 39 least-developed and the rest (even though this is not a distinction which the UK uses for its bilateral development policy, using instead the criterion of low income), but also via the regions (if EPAs are going to be pursued as a purported external inducement to regional integration), and finally by detaching the C and the P (the Caribbean and the Pacific) from the African countries or sub-groups. While only a conspiracy theorist would say that the EU has intended to “divide and rule” the ACP, this may be the unintended effect of its own mix of policies.

While DFID’s spending policy itself is increasingly focused on sub-Saharan Africa (and South Asia), HMG’s overall development policy is not to detach the Caribbean countries (who have provided some of the best leaders and instigators of policy within the ACP over the years, and as robust democracies have strong political relationships with the UK) from the focus of activity, nor to neglect the increasingly fragile Pacific developing countries, especially a least developed and recently (2000–03) “failed state” such as Solomon Islands (which until the late 1970s was a direct British responsibility) or Fiji, which has suffered three coups in the past fifteen years, and from which region it has been the prerogative of the member states to designate the next ACP Secretary-General, Sir John Kaputin of Papua New Guinea, from 2005 onwards (subject to confirmation by the ACP Ministers next week).

The danger is now that under EPA the ACP will lose their group negotiating power and coherence, just as in the WTO they are now beginning to be grouped by the G20 rump as a tiresome little groupuscule trying to sustain outmoded privileges which are damaging to the more rapidly developing countries in the South. The ACP must also ensure that they do not become their own worst enemies, for none of the new EU member states hold any particular brief for the ACP Group, and in the final analysis probably only the UK and France do from the older members (and the UK alone for maintaining or fulfilling EU obligations to the seventeen ACP countries under the Sugar Protocol).

Fifty years of experience with non-oil commodity-dependence has revealed the validity of the Singer-Prebisch theory that terms of trade for commodity producers tend towards long-term decline (this has been accepted since the 1990s even by the IMF) and too many of the ACP continue to demonstrate the worst symptoms of narrow commodity-export dependence. Even though many developing countries are currently growing fast on the back of (essentially, China’s) rapidly expanded demand for raw materials, too many

ACP countries are still stuck with vulnerable dependence on agricultural commodities for which the world market is already spoilt or distorted. For too long, special preferences notwithstanding, they failed to attract the investment which would have enabled them to industrialise; now the prospect of perpetuating backward-looking preferences (as well as offering preference-donors unconditional reciprocity) will also divert them from services enterprises too (especially mode 2 and mode 4), for which market-opening negotiations are much more urgent and potentially rewarding. Ideally a deal should be struck whereby the EU offers access in these forward-looking areas and modes as "compensation" for the erosion or withdrawal of unreciprocated special preferences and privileges which will inevitably be withdrawn. For that, the ACP have to show solidarity and negotiate boldly, as a condition of pursuing EPAs, on the terms of compensation; they have yet to take this step. Similarly, a new European Commission might like to consider updating its negotiating stance on the ACP agreements to fit the requirements of the 21st century.

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Memorandum submitted by the UK Industrial Sugar Users Group (UKISUG)

AFTER THE WTO RULING AGAINST THE EU SUGAR REGIME WHAT CAN BE DONE TO HELP THOSE ACP STATES HEAVILY DEPENDENT ON PREFERENTIAL ACCESS TO THE EU MARKET?

UKISUG represents the industrial users of sugar in the UK, who employ some 80,000 people with annual retail sales worth more than £15 billion last year. They account for around 1.2 million tonnes of sugar each year, representing about 70% of UK output and worth more than £540 million. They are therefore a significant stakeholder in the EU sugar regime.

It is important to recognise that reform of the EU sugar regime is overall a benefit to ACP and LDC countries and not a burden. To the extent that the existing regime benefits them at present, it is by tying them into a system based on a single crop grown for a single customer. This is not stable or resilient for the long term. It institutionalises dependence rather than equality.

It is also the case that the EU has been able to avoid confronting the serious issues involved in establishing sustainable pathways out of poverty. There are good reasons to suppose that EU policy has been inadequate in this area: the sugar regime has been a distraction, giving the impression of doing something when in fact not doing enough.

Policies for development should be designed specifically for the purpose. It is proven not to be adequate merely to use the off-shoot of a regulatory regime designed with a different objective in mind. In that light, we welcome the research commissioned by DFID into future options for development policies.

The timetable for development and reform within the ACP countries is likely to be longer than the timetable for reform within the EU. This is not surprising in view of the greater challenges faced by the ACP countries. For this reason, we should not suppose that both reform processes will be completed at the same time. The need for reform within the EU is urgent and should not be held up pending reforms elsewhere in the world.

Lastly, UKISUG would also caution against making too many assumptions at this time about the extent of reform of the EU sugar regime. The UK government's policy is clear and welcome, but opinion elsewhere in the EU differs. The future of the EU sugar regime remains to be decided.

The UK government will have to be tough and determined in the forthcoming negotiations if it is to achieve its objectives. It should use the coming debate to ensure that the rest of the EU is fully aware of the need to reform the regime to boost industrial competitiveness at home and encourage economic development abroad.

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