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*Sustainable Economic Development Department*

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**ACP GUIDELINES FOR THE NEGOTIATIONS OF ECONOMIC  
PARTNERSHIP AGREEMENTS**

## **INTRODUCTION**

1. The ACP-EU Partnership Agreement, which was signed in Cotonou in June 2000 (Cotonou Agreement), provides for the conclusion between the ACP and the EU of “new World Trade Organisation (WTO) compatible trading arrangements, removing progressively barriers to trade between them and enhancing cooperation in all areas relevant to trade” (Article 36(1)). In this regard, economic partnership agreements (EPAs) will be negotiated during the period starting from September 2002 until 31 December 2007. Pursuant to Article 37(5) of the Cotonou Agreement, negotiations of EPAs will be undertaken with ACP countries which consider themselves in a position to do so, at the level they consider appropriate and in accordance with the procedures agreed by the ACP Group, taking into account regional integration process within the ACP.
2. The Cotonou Agreement establishes a comprehensive framework for ACP-EU relations. At the centre of the partnership are economic development, the reduction and eventual eradication of poverty, and the smooth and gradual integration of ACP States into the world economy. The negotiations of EPAs shall take account of and be coherent with the objectives and principles of the Cotonou Agreement because all the different pillars of the Cotonou Agreement should be mutually reinforcing and supportive.
3. Moreover, EPAs will be negotiated at a time when many ACP States will also be involved in other negotiations, whether at the bilateral, regional/sub-regional or multilateral level. As a result of the WTO Doha Ministerial Conference, negotiations are currently taking place in the WTO in a number of areas and are expected to be concluded by 1 January 2005. Some ACP States are also participating in negotiations at the regional level, such as the negotiations of the Free Trade Area of the Americas (FTAA). At the same time, many ACP States are involved in regional integration processes which, in some cases, are expected to lead to the establishment of a customs union or a deeper form of regional integration. Further, the New Partnership for Africa’s Development (NEPAD) has been launched at the level of the African continent.
4. Despite their diversity, ACP States share a number of common interests in the economic, social, political and cultural fields and have been united as a group since the first Lomé Convention was signed in 1975. They have negotiated the successive Lomé Conventions and the Cotonou Agreement together. In view of the complexity and demanding nature of the forthcoming negotiations with the EU, ACP unity and solidarity, which have been reaffirmed at the highest political level during the First and Second Summits of ACP Heads of State and Government, will be most critical.

5. This document sets out the approach that the ACP should adopt to the EPA negotiations and the principles which should inform the negotiations. It also lays down the strategic and specific objectives which should be pursued by the ACP, the negotiating structure and the time line for the negotiations.
6. As the negotiations proceed, it will be necessary to take stock of progress, following which these negotiating guidelines might have to be reviewed.

## **SECTION I: ACP APPROACH TO THE EPA NEGOTIATIONS**

7. One of the key issues for ACP States is the transformation of their economies so as to promote sustainable development and thus eradicate poverty, whilst increasing their share of world trade. Development and trade are most important for ACP States.
8. The process of establishing a new economic and trade cooperation arrangement with the EU will by no means be simple. It will entail, on the part of the ACP, taking into account of the development strategies of ACP States. Thus during the negotiations, the ACP Group will establish a link between trade, development, investment and poverty eradication.
9. As regards commitments during negotiations for EPAs, ACP Member States will keep in view what is taking place with respect to:
  - (a) negotiations in the WTO which are expected to be concluded by 1 January 2005;
  - (b) EU enlargement which is expected to take place in 2004;
  - (c) the reform of the EU's Common Agricultural Policy (CAP);
  - (d) review of the EU GSP in 2004;
  - (e) regional integration processes in various ACP regions/sub-regions which are expected in some cases to result in the establishment of customs unions; and
  - (f) trade negotiations between some ACP countries and third parties, and between the EU and third parties.
10. Moreover, EPAs are expected to be notified to the WTO. It will therefore be necessary for the ACP to participate actively in the current negotiations in the WTO so as not only to inject flexibility in the WTO rules, especially those relating to regional trading agreements and to have the development dimension better taken into account, but also to make the future EPAs compatible with the WTO.
11. ACP States also need to build or develop capacity not only to negotiate but also to undertake an independent analysis of the implications of developments at the international and possibly at the inter-regional, regional and national levels, that will have a bearing on the negotiations. Further, in-depth studies would have to be carried out not only at the regional level, but also at the national level to determine the impact of trade liberalization on the economies of individual ACP States, including on various sectors of their economies, the type of adjustments they would have to make, the costs of those adjustments, and the measures they should take to benefit from EPAs.

12. The negotiations should therefore be conducted in two phases:

- (a) During the first phase, negotiations will take place at an all-ACP level with the EU with a view to concluding an all ACP-EU Agreement, focusing on objectives and principles of EPAs and issues of common interest to all ACP States, whilst allowing ACP States to undertake necessary back-up research and capacity building actions. This first phase could extend from September 2002 through 2003 when a review could take place. The negotiations in the second phase could start in September 2003.

The following list of issues could be discussed under Phase I: principles, objectives, scope and content, special and differential treatment, financing the cost of adjustment, rules of origin, standards, sanitary and phytosanitary measures, customs and administrative cooperation, framework agreement on trade in services, development of the service sectors, fisheries, treatment of trade-related issues such as competition policy, investment promotion and protection, trade and environment, institutional matters (including the Council and the future of Joint Assembly, CDE, CTA), modalities for the phasing of negotiations and the resultant implementation issues, dispute settlement mechanisms, safeguard measures, legal status of the Agreement, support measures to overcome supply constraints, capacity building, treatment of commodity protocols, trade facilitation, evaluation of the impact of CAP reform on agricultural exports, WTO-compatibility, product coverage and transitional periods and arrangements with respect to the establishment of the FTA, investment promotion schemes, including measures to promote the transfer of technology, know-how and skills.

- (b) In phase 2, the issues will cover, *inter alia*, tariff negotiations and any other specific sectoral commitments at national or regional level as the case may be and issues of specific interest to ACP countries or regions.

## **SECTION II: PRINCIPLES**

13. The following principles should inform the EPA negotiations:

**(a) Sustainable Development-oriented EPAs**

14. Forty out of the seventy-eight ACP countries are least-developed countries (LDCs). The majority of the remaining thirty-eight States are on the fringes of the LDCs when viewed in terms of the proportion of the population living under the poverty line and the vulnerability of some of the economies, particularly those of the small, island and landlocked countries. Development must therefore be at the core of the EPA negotiations.

15. ACP States have over the years established regional cooperation and integration arrangements as a process to aid their development initiatives and position the regional groupings in the competitive global economy. Internal to these various regional integration arrangements are “special and differential” facilities accorded to countries within the regions that are characterised as less developed. These arrangements have provided a factor of sustainability for the regional integration processes. These development objectives must be reflected in the negotiation process.

**(b) ACP Unity and Solidarity**

16. The ACP should be guided by the overriding principle of unity and solidarity in their approach to the EPA negotiations. On issues of common interest to all ACP States, it will be easier for the ACP to secure a better deal from the EU if they negotiate collectively than if they negotiate at an individual, regional or sub-regional level. As was evident during the negotiations of the successive Lomé Conventions and the Cotonou Agreement and more recently during the WTO Doha Ministerial Conference, the unity of the ACP Group is its force and its solidarity constitutes its negotiating strength. The ACP should continue to work in unity and with cohesion in Geneva, in order to promote and preserve ACP interests in the post-Doha work programme of the WTO. In order to participate actively and constructively in the process, the ACP should prepare and submit concrete proposals for the development of WTO rules on regional trading agreements, as well as on the horizontal and specific coverage of Special and Differential Treatment, given the importance of the WTO process to the negotiation of EPAs. It will also be easier for ACP States to exert political pressure on the EU during the negotiations if they act together rather than individually. Furthermore, negotiations at national and regional levels should make it possible to strengthen regional integration initiatives within the ACP.

17. With a view to protecting and promoting the interests of all ACP States, the ACP Group should strive to maintain its cohesiveness throughout the EPA negotiations.

**(c) Preservation and Improvement of the Lomé Acquis**

18. It has been agreed in the Cotonou Agreement that economic and trade cooperation shall be based on “a comprehensive approach which builds on the strengths and achievements of the previous ACP-EC Conventions” (Article 35(1)). The EU has also agreed that, on its side, “trade liberalisation shall build on the acquis and shall aim at improving current market access for the ACP countries through inter alia, a review of the rules of origin” (Article 37(7)).
19. Further, under Article 36(4) of the Cotonou Agreement, the ACP and the EU “reaffirm the importance of the commodity protocols, attached to Annex V of this Agreement. They agree on the need to review them in the context of the new trading arrangements, in particular as regards their compatibility with WTO rules, with a view to safeguarding the benefits derived therefrom, bearing in mind the special legal status of the Sugar Protocol”.
20. Therefore, irrespective of the outcome of the EPA negotiations, with respect to trade relations with the EU, no ACP State should be worse off in the post-2007 period than under the current ACP-EU trade arrangements.
21. Moreover, given the possible adverse effect of reciprocity on domestic production and fiscal stability in ACP States, the latter cannot *a priori* accept to provide reciprocity in EPAs with the EU. In view of the differences in the level of development between the ACP States and the EU, the ACP cannot be required to make the same level of commitments under EPAs as the EU, particularly as regards market access.

**(d) WTO-compatibility**

22. Current WTO rules are inherently imbalanced against the development needs of ACP States. In accordance with para. 9 above, the ACP will keep in view what is being done in the WTO in the context of the Doha Work Programme with a view to:
  - (i) clarifying and improving WTO rules covering regional trading agreements between developed and developing countries;
  - (ii) taking adequately into account the development dimension in WTO rules; and
  - (iii) operationalising and making legally binding in the WTO existing and new provisions on special and differential treatment.

This will then enable ACP States to be in a position to agree to EPAs that are compatible with WTO rules then prevailing. Furthermore, the ACP should urge the EU to support its position.

**(e) Special and Differential Treatment**

23. The provision of special and differential treatment to ACP States must be an essential consequence of the differentiation between the ACP and the EU based on equity and recognizing their different levels of development.
24. Moreover, in accordance with Article 35(3) of the Cotonou Agreement, special treatment should be given to LDCs and to vulnerable small, landlocked and island countries.

**(f) Flexibility**

25. In view of the level of development of ACP States and their development and economic needs, there should be flexibility on the EU side towards the ACP during the negotiations.
26. Moreover, more flexibility should be injected in WTO rules to make the future EPAs compatible with the WTO.

**(g) Sustainability**

27. EPAs will have significant implications for the socio-economic and political fabric of ACP States. The positive impact of EPAs needs to be maximized and their adjustment costs minimized so that their implementation is sustainable. In addition, EPAs should result in trade creation and not in trade diversion so as to avoid any welfare loss.
28. Sustainability should be a guiding principle and should be viewed in terms of:
  - (i) the adjustment costs of EPAs;
  - (ii) the social and political implications of EPAs;
  - (iii) the institutional and human resource capacities of ACP States; and
  - (iv) the stability of ACP States.

**(h) Coherence and Consistency**

29. It is essential for ACP States to maintain overall consistency in their development strategies and to adopt a coherent position in the various negotiations in which they are involved, whether with the EU, in the WTO, at the regional/sub-regional level or with third countries, so that they can derive the best possible results from the EPA and other negotiations.

**(i) Regional integration priorities**

30. Article 35(2) of the Cotonou Agreement states that “Economic and trade cooperation shall build on regional integration initiatives of ACP States, bearing in mind that regional integration is a key instrument for the integration of ACP countries into the world economy”. Nearly all ACP States are currently involved in regional integration processes which are of varying degrees of intensity. If these processes are not to be stifled or undermined, they should have precedence over EPAs for any trade liberalisation commitment vis-à-vis the EU. ACP States must be allowed to first consolidate their own regional integration processes. Moreover, they do not have the capacity to liberalize in parallel and concurrently with the EU.
31. EPAs should therefore support the ACP regional integration processes/initiatives based on the principle of sequencing and not undermine them.

**(j) Legitimacy**

32. EPAs will have to establish their legitimacy in ACP States, particularly as regards their contribution to the sustainable development of those countries. In this regard, it will be, as a matter of principle, essential that the negotiation process be paralleled by concerted efforts to generate within the ACP and EU States:
- involvement of all stakeholders in the negotiation process and public support for the negotiations and outcome of those negotiations;
  - public scrutiny of the negotiations, including parliamentary follow-ups;
  - creation of a level-playing field in terms of capacities to negotiate (including levelling the costs of the negotiation process);
  - negotiation procedures which are inclusive and transparent.

**(k) Additionality of resources and support for adjustment**

33. As a result of the implementation of EPAs, ACP countries will face a new set of adjustment difficulties and challenges such as revenue loss, unemployment, the upgrading of productive structures and human resources and the building of the requisite institutional capacity.

Additional resources will have to be provided to the ACP to assist them in meeting the inevitable adjustment costs.

The EPA negotiation process should aim at:

- (i) creating a special economic and trade compact in terms of:
  - setting up an adjustment compensation fund through the provision of additional resources, with rapid and flexible disbursement procedures;
  - addressing, *inter alia*, supply-side constraints, diversification, improving productivity and competitiveness;
  - support for promotion of trade;
  - strengthening product-specific export corridors;
  - strengthening trade governance; etc.
- (ii) attracting FDI through resource allocation for investment promotion/facilitation, conclusion of investment protection and double taxation agreements, in addition to the creation of an enabling environment.

### **SECTION III: OBJECTIVES**

#### **A. STRATEGIC OBJECTIVES**

34. The strategic objectives of the ACP Group should be to:
- (a) achieve sustainable development and eradication of poverty in ACP States and to foster their smooth and gradual integration into the world economy. In this regard, development-oriented EPAs should be concluded;
  - (b) achieve sustained economic growth, develop the private sector, increase employment, and improve access to factors of production as well as secure improved and beneficial market access;
  - (c) enhance the production, supply and trading capacity of ACP countries and their capacity to attract investment as well as strengthen the ACP countries' trade and investment policies;
  - (d) reduce the dependence of ACP States on the production of primary products and natural resource-based sectors through diversification and increased value-added;
  - (e) bring about the structural transformation of ACP States into knowledge-based competitive economies capable of facing the challenges of globalization, exploiting new market access opportunities in the EU, the ACP regions and in the world at large, and attracting substantial investment;
  - (f) address obstacles to the exports of ACP goods and services to the EU market and as regards their domestic production, and in particular problems related to physical infrastructure of ports, internal waterways, rail, roads, air and communication links and the various legal and administrative regimes for trade administration;
  - (g) foster inter-linkage and complementarity between development strategies supported by the EU, and economic and trade cooperation to make them mutually reinforcing, particularly as regards economic and trade reforms, factors that favour investment, regional cooperation and integration processes, sectoral policies and the development of capacities in the field of trade. EPAs should be consistent with and contribute to the strengthening of regional integration initiatives;
  - (h) secure the underwriting by the EU of the costs of adjustment associated with the implementation of EPAs through the creation of a financial facility additional to and distinct from the EDF;

- (i) establish a mechanism that will contribute to a durable solution for the problem of external indebtedness of ACP countries.

**B. SPECIFIC OBJECTIVES**

35. The specific objectives to be pursued by the ACP have been developed to cover the two phases of negotiations as defined in para. 12 above.

**(a) Trade issues**

**(i) *Market access***

The following principles would be kept in view during the first phase, but would guide the negotiations that would take place during the second phase at national or regional level or in any other configuration to be decided by the ACP:

- To secure a guaranteed access to the EU market for exports from all ACP countries, free of customs duties and other prohibitive taxes and without any quantitative restrictions or measures having equivalent effect, taking however into account existing Commodity Protocols.
- To secure duty- and quota-free market access for essentially all products for all ACP LDCs, as reflected in Article 37(9) of the Cotonou Agreement.

*Agriculture*

- To improve the market access by, *inter alia*, addressing export subsidies and domestic support, for all agricultural products originating from ACP States, while preserving existing preferential arrangements. Under Article 36(4) of the Cotonou Agreement, the ACP and the EU “reaffirm the importance of the commodity protocols, attached to Annex V of this Agreement. They agree on the need to review them in the context of the new trading arrangements, in particular as regards their compatibility with WTO rules, with a view to safeguarding the benefits derived therefrom, bearing in mind the special legal status of the Sugar Protocol.”

- To negotiate for increases in the existing quotas under the commodity protocols in order to accommodate new entrants to those protocols. Redistribution of existing quotas would lead to some member countries becoming worse off, much against the spirit of the Cotonou Agreement.
- To renegotiate the existing ACP internal administrative arrangements in order to restore lost quotas of the Sugar Protocol signatory States and allow for a more flexible and equitable allocation mechanism to zero quota holders under the Sugar Protocol.
- To address the concerns of ACP countries, in particular those of LDCs, small island developing States (SIDS), landlocked countries, net-food importing and heavily indebted non-LDCs, small economies and single commodity producers as well as non-trade concerns such as rural development and preservation of the environment.

*Trade in Services:*

- To strengthen the capacity, efficiency and competitiveness of ACP countries in the supply of services of export interest to them, in particular labour, business, distribution, financial, tourism, cultural and construction and related engineering services, air transport and communications, among others, with a view to increasing the value and the volume of their trade in goods and services.
- To improve access to the EU of services originating in ACP countries, particularly in mode 4 relating to the movement of natural persons.
- To develop effective measures for implementation of GATS Article IV with a view to increasing ACP participation in world trade in services through, inter alia, access to technology; access to distribution channels and information networks; and the liberalization of market access in sectors and modes of supply of export interest to the ACP.

**(ii) *Rules of origin***

- To develop an improved and simplified system of rules of origin, in order to facilitate smooth exchange of goods, without creating unnecessary obstacles to trade, for goods originating from the ACP into the EU markets as well as for products originating from the EU into the ACP markets.
- To ensure that the rules of origin contribute to regional integration and to the preservation of preference margins.

**(iii) *Customs procedures/trade facilitation***

- To simplify and harmonize customs legislations and procedures at national and regional levels, in order to facilitate trade and reduce administrative costs.
- To design effective systems to detect and combat fraud and other illicit customs activities without creating unnecessary obstacles to trade.
- To create and implement mechanisms to exchange information on customs matters within the ACP, and between the ACP and the EU.
- To promote customs mechanisms and measures that ensure operations are conducted with transparency, efficiency and integrity.

**(iv) *Safeguards***

- With a view to enabling ACP countries to protect their domestic industries in case increased imports from the EU cause or threaten to cause injury to their domestic industry, appropriate safeguard measures should be negotiated. The provisions on safeguard should provide for special and differential treatment for ACP countries.

**(b) Trade-related issues**

Any commitment made by the ACP in respect of trade-related issues shall take account of the outcome of the discussions or negotiations in the WTO on those issues.

- To seek the strengthening of ACP countries' capacity to handle all areas related to trade, including, where necessary, improving and supporting the institutional framework.

**(i) *Competition policy***

- To assist ACP States and regions to develop the necessary legal and administrative infrastructure and pre-requisites to deal with competition policy.
- To develop effective and sound national and regional competition policies and rules as a means for improving and securing an investment friendly climate, a sustainable industrialisation process and transparency in the access to markets.

- To ensure that appropriate mechanisms may be implemented and maintained by ACP States to avoid their domestic firms and enterprises from being destabilized by foreign firms and to address the restrictive business practices of multinational corporations.

**(ii) *Intellectual property rights***

- To ensure that the benefits of intellectual property regimes are equitably shared between the owners and users of technology.
- To develop an intellectual property protection regime that encourages innovation and technological development in a manner that is also conducive to meet public and social policy objectives and transfer of technology to ACP States.
- To develop mechanisms that provide for the disclosure of sources of traditional knowledge and genetic resources used in inventions.
- To develop mechanisms that provide for the protection of traditional knowledge, including expressions of folklore.
- To develop mechanisms that prevent biopiracy.
- To ensure that intellectual property protection does not prevent access to social services.
- To ensure that the intellectual property regime developed does not exclude collective or regional arrangements for the ownership or use of intellectual property, particularly to meet public or social objectives.
- To develop mechanisms that do not exclude small entities from being able to enforce their intellectual property rights, particularly in other jurisdictions.
- To seek the application of meaningful incentives by the EU and its Member States for EU enterprises to transfer technology to ACP States.

**(iii) *Standardisation and certification***

- To prevent and eliminate unnecessary technical barriers to trade.
- To reduce differences between the ACP and the EU in the field of standardisation, certification and quality assurance so as to facilitate trade.

- To secure support for ACP capacity building initiatives in the management of technical regulations, conformity assessment, metrology and standardisation, including in the setting up of certification institutions.
- To develop functioning and cooperation links between ACP and European standardisation, conformity assessment and certification institutions.
- To conclude, over time, mutual recognition agreements in sectors of mutual economic interest.

**(iv) *Sanitary and phytosanitary measures***

- Sanitary and phytosanitary (SPS) measures should not be used as a means of arbitrary discrimination or as disguised restrictions to trade.
- To develop a mechanism for co-ordination, consultation and exchange of information as regards notification and application of proposed SPS measures, whenever these measures might affect the interests of either the ACP or the EU.
- To secure support for capacity building initiatives for the ACP so that they can meet the SPS measures of the EU which are increasingly becoming stringent.
- To take appropriate measures so as to minimize the extra costs placed on ACP producers and exporters to comply with EU SPS measures.

**(v) *Trade and environment***

- The ACP may reaffirm their commitment to implement environmental standards as defined by the relevant international conventions, taking into account the relevant discussions in the WTO.

**(vi) *Trade and labour standards***

- In the negotiations of EPAs with the EU, ACP States may reaffirm, in accordance with Article 50 of the Cotonou Agreement, their commitment to the internationally recognized core labour standards, as defined by the relevant ILO Conventions.

(c) **Development cooperation issues**

The development component is essential to an EPA. The concept of development employed is a trade-related one, in the sense that trade liberalization entails for ACP countries certain economic costs such as the fiscal impact and adjustment costs, and capacity requirements that need to be addressed. Unless these are addressed, the benefits of an EPA for the ACP would be unrealizable and the EU would be the beneficiary of ACP trade liberalization. The partnership must therefore serve to address these developmental needs specifically deriving from trade liberalization, which are different from other kinds of development needs requiring EU support.

(i) ***Supply-side constraints***

- In view of the high dependence of many ACP States on the export of one or more commodities, to take measures to comprehensively address the supply-side constraints faced by ACP States, which affect their competitiveness, including strengthening public utilities, infrastructure and other development tools for the private sector, institutional and policy frameworks, and improving labour productivity.

(ii) ***Transport***

- To secure support for ACP States' efforts to develop and promote cost-effective and efficient maritime transport infrastructure and services and other forms of transports, including air and land transport and inland waterways, with a view to increasing the participation of ACP operators in intra-ACP, regional and international trade.

(iii) ***Energy***

- To secure support for the development of energy in ACP States, including electrification and distribution to rural areas.

(iv) ***Technologies, including information and communication technologies***

- To facilitate technology partnership and secure support for capacity building.
- To step up co-operation in this area, directed in particular towards greater complementarity and harmonisation of communication systems, at national, regional, inter-regional and international level and adaptation to new technologies.
- To enable persons of ACP countries to easily access information and communication technologies.

(v) ***Commodities***

- To establish a special programme to promote the development of activities in the fields of processing, marketing, distribution and transportation (PMDT) of commodities.

(vi) ***Fisheries Agreements***

- To ensure that fisheries agreements that are negotiated between the EU and interested individual ACP States contribute to the development of those countries and guarantee sustainable fishing activities in their waters. In this regard, any fisheries agreement concluded between the EU and an ACP State should include the following components:
  - (i) sustainability of fishery resources, especially the respect of biological pauses;
  - (ii) environmental sustainability commitments;
  - (iii) meaningful financial compensation;
  - (iv) assistance to ACP States to develop their fishing industry as well as their processing/canning industry, and to export their fish products;
  - (v) establishment of joint ventures;
  - (vi) transfer of technology, research and training;
  - (vii) employment and training of ACP nationals on EU vessels;
  - (viii) obligatory landing of part of the catches in the ACP State concerned.

(vii) ***Measures to address adjustment costs***

The implementation of EPAs and reforms or adjustments to be made by ACP States in anticipation of the implementation of EPAs will entail additional costs for them.

Since in many ACP States, import duties constitute an important source of government revenue, increased liberalization of trade will imply loss of revenue. ACP States may therefore have to make fiscal adjustments which might not, however, make up totally for the loss in revenue from import duties, especially in countries where import duties are a major source of government revenue and where there are constraints to enlarging the tax base, especially through the introduction of or increase in VAT.

Most ACP States already have a heavy debt burden, both external and domestic. As a result, they will not be able to find the necessary resources to finance those adjustments as well as their national development and social policies.

Moreover, increased competition resulting from trade liberalization may adversely affect ACP domestic industries, thereby leading to the closure of factories and loss of employment. There may be a need for ACP States to redeploy labour and in this regard, retraining would be required.

With a view to enabling ACP States to meet those adjustment costs so that EPAs can be implemented in a sustainable manner, there should be a special package of measures in terms of, *inter alia*,:

- (a) compensatory mechanisms to deal with the costs of adjustment;
- (b) additional resources over and above those available under the EDF. These resources should be committed by the EU through a regular budgeting exercise rather than on a voluntary basis as is the case currently under the EDF;
- (c) cancellation of all debts owed by ACP States to the EU and its Member States;
- (d) adequate transitional and asymmetrical arrangements to allow ACP States to implement EPAs;
- (e) an investment promotion package, including measures to promote the transfer of technology, know-how and skills, concessional funding for the private sector, and incentives for investment from EU Member States into ACP States;
- (f) support to industrial innovation, research and technological development;
- (g) financing for human resource development for sustainable development and industrial restructuring.

**(d) Legal Issues**

**(i) *Dispute Settlement***

- To establish a fair, simple, transparent and cost-effective mechanism for dispute settlement between the ACP and the EU.
- To design a system that facilitates and promotes the use of arbitration and other alternative forms of dispute settlement to solve private trade disputes.

**(ii) *Other legal issues***

- To create a binding legal framework within which the results of the negotiations at the all-ACP level with the EU can be incorporated.

- To secure a guaranteed legal status for EPAs.
- Ratification and entry into force of EPAs and revision clause.

#### **SECTION IV: ACP NEGOTIATING STRUCTURE**

36. Since 1975, the ACP Group has negotiated four consecutive Lomé Conventions and the Cotonou Agreement. In these negotiations, the ACP Group used a structure that was based on its established institutional set-up, namely the Committee of Ambassadors and the ACP Council of Ministers as the negotiating organs and the ACP Secretariat as the technical and coordinating organ. Assistance was often sought from groups of ACP trade experts on specific technical aspects of those negotiations.
37. The ACP Ministerial Trade Committee (MTC) was constituted to, *inter alia*, monitor the preparatory and negotiation process of EPAs. The ACP MTC is part of the Joint ACP-EU Ministerial Trade Committee. The MTC should follow progress made in the negotiation process.
38. Since the EPA negotiations will mainly focus on trade and related economic issues common to all ACP countries and specific to ACP regions, Ministers of Trade and representatives of the Secretariats of the ACP regional economic integration organisations should be included in the structure for the negotiations. Selected Ministers should act as ACP spokespersons for the main negotiating groups. The close involvement of the Geneva-based ACP representatives in the negotiation process would also be required. These representatives, particularly their coordination mechanism, as in the recent past, will continue to fully support the preparatory process.
39. In the process of stepping up its preparations for the EPA negotiations, the ACP Group set up an Advisory Group of High-Level Trade Experts. This is a formidable technical resource that has considerably supported the preparatory process and should be counted on to support the negotiation process technically. Additional technical support should be sought from trade, economic and finance experts and non-state actors in ACP States and regions that have competences in the main areas of the negotiations. In addition, technical back-up will be sought from COMSEC, UNCTAD, regional development banks and Secretariats of regional integration groups.
40. The proposed structure is applicable to the first phase of the negotiations as per the provisions of para. 12 above.

41. The entire EPA negotiations are expected to take place over a period of five years. It is anticipated that the negotiations will be undertaken in several rounds of technical and political discussions. This will require the negotiating teams from both sides (ACP and EU) to meet in accordance with the time line in Section V. On the ACP side, this will have significant cost implications. The choice to make the Committee of Ambassadors as the ACP negotiators for the first phase of the negotiations will alleviate a large part of the cost implications. However, the financial implications related to work of the technical groups and the Ministerial Spokespersons will remain an issue that the ACP Group will have to resolve.
42. In the light of the above, the following structure is proposed for the negotiations:
- (a) **ACP Council:** The ACP Council of Ministers will be the highest political monitoring organ, at least for the first phase of the negotiations. The ACP Council of Ministers will be responsible for the development and approval of negotiating positions and will review progress reports on the negotiations from the ACP MTC at least on a six-monthly basis and ultimately approve the outcome of the negotiations. At the joint level, this could be done by the ACP-EU Council of Ministers. The ACP Ministers of Trade and Finance will undertake comprehensive reviews of progress in the negotiations during their annual meetings. Since the heads of the ACP regional economic integration organisations regularly attend the meetings of the ACP Council, they will monitor the progress in the negotiating process.
  - (b) **Monitoring and Review Body:** The ACP Ministerial Trade Committee and the Joint ACP-EU Ministerial Trade Committee will monitor and review progress in the EPA negotiations. Since the heads of the ACP regional economic integration organisations regularly attend the meetings of the MTC, they will also monitor the progress in the negotiation process.
  - (c) **Ministerial Spokespersons:** The ACP Council of Ministers will mandate selected Ministers of Trade as ACP spokespersons and alternates for the specific negotiating groups. The Ministerial spokespersons will be selected on the basis of criteria to be agreed by the ACP Group.
  - (d) **Negotiating Groups:** These will be constituted based on the final categories of the subjects to be finally agreed upon by both sides as part of the negotiations for the all ACP-EU Agreement. The negotiating groups will be constituted by members of the Brussels-based ACP Committee of Ambassadors supported by the Geneva-based ACP representatives whenever necessary. Memberships to the specific negotiating groups will essentially reflect balances agreed upon at the ACP level within the best interests of all States.

- (e) **Technical Groups:** Parallel technical groups will be constituted of experts in specific fields to support the work of the negotiating groups. The technical groups will be composed of the members of the Advisory Group of High-Level Trade Experts, selected experts in the various areas of negotiations, finance and economic matters, and experts representing regional integration organisations. The ACP Secretariat will coordinate the work of the technical groups.
  
- (f) **Institutional coordination:** The ACP Secretariat will coordinate, under the authority of the ACP Council and the ACP Committee of Ambassadors, the entire technical work relating to the negotiation of the all ACP-EU Agreement including in the preparations of technical documents, and supporting the negotiation process. Coordination mechanisms will be established between the Secretariats of the ACP Group and the regional economic integration organisations to ensure the effective involvement of the latter in the negotiations and to maintain coherence between the EPA negotiations and other economic and trade negotiations that might be taking place in parallel in various ACP regions.

## **SECTION V: TIME LINE FOR EPA NEGOTIATIONS**

43. The following time line is being proposed for the EPA negotiations. It is, however, to be noted that it may have to be adapted in the light of future developments.

<b>DATES</b>	<b>NEGOTIATION ACTION</b>	<b>REVIEW</b>
June - Sept. 2002	<ul style="list-style-type: none"> <li>▶ Establishing Negotiating Groups.</li> <li>▶ Appointment of Ministerial spokespersons.</li> </ul>	
Sept. 2002	<ul style="list-style-type: none"> <li>▶ Formal launch of the negotiations.</li> </ul>	<ul style="list-style-type: none"> <li>▶ Meeting of ACP MTC.</li> <li>▶ Meeting of Joint MTC.</li> <li>▶ Special Session of ACP Council of Ministers.</li> </ul>
Oct. 2002 - March 2003	<ul style="list-style-type: none"> <li>▶ Development of negotiation documents and positions.</li> </ul>	<ul style="list-style-type: none"> <li>▶ ACP &amp; Joint MTC to review progress.</li> </ul>
March - June 2003	<ul style="list-style-type: none"> <li>▶ Negotiations at technical level – Phase I issues.</li> </ul>	
June - July 2003	<ul style="list-style-type: none"> <li>▶ ACP-EU Ministerial round of negotiations – Phase I issues.</li> </ul>	<ul style="list-style-type: none"> <li>▶ ACP Council of Ministers to review progress.</li> </ul>
Sept - Dec. 2003	<ul style="list-style-type: none"> <li>▶ Development of legal texts for the all ACP-EU Agreement.</li> <li>▶ Technical level preparations for approach to subsequent negotiations.</li> <li>▶ Start of Phase II of EPA negotiations</li> </ul>	<ul style="list-style-type: none"> <li>▶ ACP Ministers of Trade and Economic Affairs/Finance to review progress.</li> </ul>
2004		<ul style="list-style-type: none"> <li>▶ ACP-EU consultations on the situation of non-LDCs which are not in a position to enter into EPAs.</li> </ul>
2003 - 2007	<ul style="list-style-type: none"> <li>▶ Phase II of EPA Negotiations.</li> </ul>	
2006		<ul style="list-style-type: none"> <li>▶ Formal ACP-EU review.</li> </ul>
2007	<ul style="list-style-type: none"> <li>▶ Drafting of legal texts and conclusion of the agreements.</li> </ul>	<ul style="list-style-type: none"> <li>▶ ACP-EU Council to formally conclude negotiations.</li> </ul>