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Statement of Solidarité (www.solidarite.asso.fr)

Time is up to stop the EU-ACP EPAs negotiations

June 23, 2012

In September 2011, the European Commission proposed to remove 16 African countries from the EU Market Access Regulation 1528/2007 – allowing ACP countries which had initiated an EPA to enjoy duty-free access to its market as they engage in a signature and ratification process – if they have not ratified the EPAs by 1 January 2014. The EPAs negotiations which began just one year after the Doha Round are in the same deadlock because signing and ratifying them would be even worse for the ACPs. The EU is saying that if Ghana, Kenya, Namibia, Botswana, Cameroon, Cote d'Ivoire, Swaziland and Zimbabwe – to limit our paper to Sub-Saharan Africa (SSA) grouping together 94% of the ACPs population –, they will be dropped from the list of countries receiving EPA treatment. However the International Trade Committee of the European Parliament has recommended the 20 June 2012 at a large majority to postpone the deadline to the 1 January 2016.

The disaster of the EPAs has been denounced since the start by the ACPs negotiators, by the civil society of ACPs and EU and even by the UK and French public authorities. The House of Commons debated the issue the 23 March 2005 and concluded: "*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... We do not believe that ACP states should be asked to open their markets to EU agricultural products until all trade-distorting subsidies have been removed*"¹. The French National Assembly's report of 5 July 2006 concluded: "*If the Commission persists, Europe will commit a political, tactical, economic and geostrategic mistake... It will generate a budgetary shock, a balance of payments shock, an industrial shock and an agricultural shock... Can we really assume the responsibility of leading Africa, which in a few years will be home to the greatest number of persons living on less than one dollar a day, to more chaos, on the grounds that OMC rules are being complied with?... It is therefore absolutely necessary for politicians to give a new negotiating mandate to the Commission, following a Franco-British initiative. These two Member States, for obvious historic reasons, must and can be in the forefront in this respect*"². The 16 June 2008 Christiane Taubira, then MP from French Guyane and now Minister of Justice, rendered her report on the EPAs to the Republic's President, commenting: "*The EPAs are trade agreements and are not about development. The EU Commission endorses that. But I do not share the view that free trade can be conducive to development. There are no examples of free trade which led to development. The EPAs will eliminate all protections and deprive ACPs governments of revenues and interventions in the economy*"³. The report criticises "*The tactics -- pressure, paternalism and threats -- employed by the Commission to impose its point of view and its*

¹ <http://www.publications.parliament.uk/pa/cm200405/cmselect/cmintdev/68/68.pdf>

² <http://www.assemblee-nationale.fr/12/europe/rap-info/i3251.asp#TopOfPage>

³ <http://www.lejdd.fr/Economie/Actualite/Taubira-Les-gens-crevent-de-faim!-90439/>

interests... The EU should recognise the right of poor countries to feed themselves by allowing them to exclude agricultural goods from trade liberalisation"⁴. She added: "The EU should now state if it has decided to 'abandon development as if it was a dangerous mirage and invite the ACP countries to throw themselves into the big bazaar of free trade'"⁵.

But the best criticisms came clearly from the ACPs civil society and politicians. For Maurice Oudet, leader of an NGO in Burkina Faso circulating a weekly paper on agricultural policies in West Africa: "How can one indeed believe the European Commission when it declares that countries which have not managed to develop, in spite of 35 years of protection and free access to the European market, will all of a sudden be able to come out of their poverty, when their own market will be 80% open to European exports?"⁶. On 19 March 2012, in an article "Will Europe Under-develop Africa Again?" the former governor of the Central Bank of Nigeria (CBN), Professor Chukwuma Soludo, has warned that signing the EPAs would lead to a "second slavery"⁷. The best argued attack against the EPA came from Mr. Benjamin W. Mkapa, former President of Tanzania and Chairperson of the South Centre in his keynote speech in Arusha on 13 February 2012 at the East African Legislative Assembly⁸. We will come back on this. Lastly, the 15 June 2012, "The African, Caribbean and Pacific group of countries has said it would not bow to pressure by the European Union to sign the Economic Partnership Agreements, until there is a mutually beneficial position that does not threaten regional integration"⁹.

We will analyze now the main reasons why the ACPs as well as the EU should stop the EPA negotiations or at least why they should rebuild them radically. However let's look first at the challenges the SSA and its farmers are facing.

I – The SSA is facing 5 challenges: on population, food, climate, land and budget

According to the UN the SSA population would jump from 856 million (M) in 2010 to 1.960 billion (bn) in 2050, an annual increase by 2.1%, after by 2.4% from 1995 to 2010, that of West Africa (WA) jumping from 304 M to 744 M, an annual increase of 2.3%.

According to FAO, SSA food deficit (fish excluded) was multiplied by 5.6 from 1995 (\$1.9 bn) to 2007-09 (\$10.1 bn), an annual rise by 12.7%. If we exclude the net trade in coffee-cocoa-tea-spices – which are not basic staples – the food deficit was of \$15.7 bn in 2007-09, an annual rise by 16.3%, increasing 6.9 times faster than population. Despite these large imports – or rather because of them – 30% of the SSA population suffer from hunger.

For WA, the food deficit (fish excluded) has jumped from \$695 M in 1995 to \$3.8 bn in 2007-2009, an annual rise by 12.9% (5.6 times faster than population), but, if we exclude the net trade in coffee-cocoa-tea-spices, the deficit reached \$8.6 bn in 2007-2009 against \$2.8 bn in 1995, an annual rise by 8.3%.

⁴ www.normangirvan.info/wp.../07/highlights-of-taubira-repot1.doc

⁵ <http://www.normangirvan.info/report-to-president-sarcozy-from-christiane-taubira-on-the-eu-acp-epas/>

⁶ <http://www.abcburkina.net/en/nos-dossiers/vu-au-sud-vu-du-sud/866-453-lettre-ouverte-a-madame-christiane-taubira-ministre-de-la-justice>

⁷ <http://allafrica.com/view/group/main/main/id/00016088.html>

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http://www.southcentre.org/index.php?option=com_content&view=article&id=1702%3Aasb60&catid=144%3Asouth-bulletin-individual-articles&Itemid=287&lang=en

⁹ <http://www.bilaterals.org/spip.php?article21668>

With the optimistic hypothesis that the food deficit would increase twice less rapidly in the future than from 1995 to 2007-09 – i.e. by 6.3% a year in SSA and 6.4% in WA, without excluding coffee-cocoa-tea-spices –, it would nevertheless be of \$39 bn in 2030 and \$131 bn in 2050 for SSA and of \$15 bn in 2030 and \$51 bn in 2050 for WA. Such prospects would be unsustainable financially.

Clearly climate change would not mitigate such bleak prospects as, according to the IPCC (International Panel on Climate Change), *"Africa is the continent most vulnerable to the impacts of projected changes because widespread poverty limits adaptation capabilities... In most African countries, farming depends entirely on the quality of the rainy season—a situation that makes Africa particularly vulnerable to climate change. Increased droughts could seriously impact the availability of food, as in the horn of Africa and southern Africa during the 1980s and 1990s"*¹⁰. The Ouagadougou Seminar of 2008 on climate change specified that *"Photosynthesis slows down with the rise in temperature, and research shows that rice yields diminish by 10 per cent for each rise of 1° C in night temperature"*¹¹.

Those prospects of a large rise in SSA food deficit are darkened even more by an actual racket of its agricultural lands in the last years from several Asian countries and international pension funds. On the pretence that they enjoy huge financial resources they have bought up or rented for decades over 50 million hectares¹² of African villages' community lands without consulting them nor indemnifying them, with the objective to export the food and agrofuels. With the complicity of the African heads of State who were lured that the resulting investments will benefit local populations, with additional jobs and "technology transfers". The international institutions have rapidly legitimized those investments through the "Principles for Responsible Agricultural Investment that Respect Rights, Livelihoods and Resources" (RAI), which are in fact *"seven principles for "win-win" landgrabbing"* that farmers organizations worldwide have denounced as being all just for show¹³.

According to the World Bank, the share of SSA national budgets devoted to agriculture had declined from 6.4% in 1980 to 4.5% in 2002, against from 15% to 9% in Asia¹⁴. The commitment taken in June 2003 in Maputo by the African Union's Heads of State and government to rise this share to at least 10% by 2008 has only materialized in 8 SSA countries on average over the period 2003-09: Burkina Faso, Ethiopia, Ghana, Guinea, Malawi, Mali, Niger and Senegal¹⁵. Nevertheless their food deficit has risen by 62% from 2003 to 2009. Furthermore, contrary to what we could think, this commitment did not imply that this share was to come from the sole national budgets, as attested by the 2010 report of the CAADP (Comprehensive Africa Agriculture Development Programme), at least for West Africa: *"In WA, the Sahelian countries (which largely spend on investments rather than recurrent), funding primarily comes from ODA/external sources"*¹⁶.

Precisely, according to another CAADP report of 2010, *"For Africa as a whole, the share of donors' aid to agriculture has registered a constant decline, from 15% on average from 1980*

¹⁰ <http://www.ipcc.ch/pdf/special-reports/spm/region-en.pdf>

¹¹ <http://ctaseminar2008.cta.int/pdf/CTA-Compilation-En.pdf>

¹² http://www.grain.org/fr/bulletin_board/entries/4431-nouveaux-jeux-de-donnees-sur-l-accaparement-de-terres

¹³ <http://www.grain.org/article/entries/4227-it-s-time-to-outlaw-land-grabbing-not-to-make-it-responsible?locale=en>

¹⁴ <http://www1.worldbank.org/publicsector/pe/pfma07/OPMReview.pdf>

¹⁵ <http://resakss.wordpress.com/2010/04/23/resakss-me-report-for-caadp-presented-at-6th-caadp-pp/>

¹⁶ <http://www.slideshare.net/resakss/comprehensive-monitoring-and-evaluation-me-report-for-the-comprehensive-africa-agriculture-development-programme-caadp2010>

to 1995 to 12% between 2000 and 2002. In 2006 that share has fallen to around 4%"¹⁷. According to an Imperial College of London's report, "In 2007 the total overseas development aid (ODA) to agriculture in SSA from the Development Assistance Committee (DAC) members was just over \$820 million, which is a tiny fraction of total ODA"¹⁸, the share of the EU and its member States being of \$659 M. Which implies an OECD aid of \$4.51, and an EU aid of \$3.62, for each of the 182 million full time agricultural working unit (AWU) of SSA in 2007, to be compared with the EU \$7,618 of total agricultural expenditures (including States aids) per AWU (11.850 M) in the same year, 2104 times higher. In 2011 the EU agricultural expenditures per AWU rose to \$8949 (with 10.356 M AWU). Let us add that the EU €2 bn aid to ACPs of the Xth European Development Fund for the 6 years 2008 to 2013 represented in 2010, in the middle of the period, a minuscule per capita aid of €4 for each of the 914 M citizens of all ACPs¹⁹, the share going to each farmer being a tiny part of it!

II – The EU arguments for EPAs are unfounded

The main EU arguments for the EPAs are: 1) they would foster regional integration in ACPs and 2) their increased integration in world trade; 3) they are a WTO constraint. Let us begin by the basic premise that EPAS would facilitate a deeper integration of ACPs in world trade.

2.1 – The EPAs would foster an increased integration of ACPs in world trade

The European Commission (EC) justifies the EPAs by a *reductio ad absurdum* argument: under the pretext that "Past ACP-EC trade cooperation... primarily... built on non-reciprocal trade preferences, has not delivered the results expected... It has not prevented the increasing marginalisation of the ACP in world trade", ACPs must face free-trade with the EU to stimulate their competitiveness which will be increased at the same time with the rest of the world. In other words, let's open the hen-house to the fox in order to test the resistance of chickens.

Yet the assertion that the more a country is integrated in world trade the more it is developed – the fundamental mantra of the Washington's consensus – is completely contradicted by reality as shown in table 1 on the ratios of trade to Gross Domestic Product: (imports + exports of goods and services)/2 GDP. With the exception of China, which had become the world first industrial workshop, the more countries are developed, the lower their integration in world trade.

Table 1 – Trade in goods and services as a percentage of GDP in 2006

USA	Japan	EU27	India	LatinAmerica	World	LDCs	DCs LMI	SSA	China
13.50%	13.50%	14.30%	23.50%	24.50%	17.00%	29.50%	32.50%	34.50%	36%

Source: World Bank; DCs LMI: developing countries of low and middle income.

But the most interesting for agriculture is to compare the degree of food import dependency (in volume) for the basic food staples (cereals, dairy products in milk-equivalent and meats), for the average of 2000 to 2009 in the US, EU, China, India, Brazil, Africa, North Africa, SSA and WA. Once more, the more a country is developed the less it depends from imports.

¹⁷ <http://resakss.wordpress.com/2010/04/23/resakss-me-report-for-caadp-presented-at-6th-caadp-pp/>

¹⁸

<https://workspace.imperial.ac.uk/africanagriculturaldevelopment/Public/Preliminary%20Analysis%20of%20Euro%20Assistance%20to%20Agriculture%20in%20SSA%20FINAL.pdf>

¹⁹ http://www.fes.de/cotonou/DocumentsEN/ThematicFocus/trade_finance_economy/PleaAgainstEPAs.pdf

Domestic consumption is defined here as the sum of production and imports less exports, forgetting the variations in stocks.

Table 2 – Share of imports in domestic consumption of basic food staples from 2000 to 2009

	Cereals	Dairy products*	Meats
EU	5.3%	1.5%	3.7%
USA	1.9%	2.6%	3.8%
China	2.7%	9.8%	1.5%
India	0.5%	0.08%	0.01%
Brazil	13.8%	2.9%	0.3%
Africa	28.6%	19.9%	7.5%
North Africa	45.1%	23.7%	5%
Subsaharan Africa	19.4%	16.5%	8.2%
West Africa	19.3%	38.1%	7.0%

Source: Faostat; * in milk-equivalent

Clearly this lower import dependency, or if we prefer the higher food sovereignty, is largely a function of the tariff level. Here again the official recurrent discourse and of mainstream economists is that the average agricultural tariff of developing countries is much higher than that of developed countries. This is a huge lie as this average does not mean anything, being calculated on several thousands of tariff lines among which many hundreds are not activated and many hundreds are at zero tariff. Clearly there are also many lines that benefit from various levels of preferential tariffs as it is the case for developed countries for their imports from DCs. Here we consider only the most recent MFN (most favored nation) applied tariffs extracted from the WTO tariff data base. The table 3 does not take into account the tariff quotas (TRQs) with lower tariffs, as it is the case for instance for the EU wheat of medium and low quality (for 3 M tonnes). In the case of EU cereals also the tariffs on other cereals than soft wheat and barley are dependent on the gap between the CIF import price of US cereals and 155% of the EU intervention price so that in recent years with high world (in fact US) cereals prices, no tariff was applied. Furthermore, to support the EU producers of white meats, the EU suspended the lower tariffs on TRQs of soft wheat (€12/t) and barley (€16/t) from February 2011 to the 1st July 2012.

Table 3 – Most recent applied MFN tariffs on cereals, concentrated milk and frozen meats

	Soft wheat	Hard wheat	Rice	Maize	Concentrated milk	Frozen meats		
						beef	pork	poultry
EU	95 €/t	148 €/t	175 €/t	94 €/t	1254 €/t	12,8%+1768 €/t	536 €/t	262 €/t
USA	350 \$/t	650 \$/t	11,20%	50 \$/t	330 \$/t	444 \$/t	555 \$/t	880 \$/t
Japan	123 \$/t	124 \$/t	4300 \$/t	113 \$/t	35%	50%	0%	11,90%
Canada	76,50%	49%	0%	0%	3223 \$/t	26,50%	0%	238%
Switzerland	32-78 \$/t	78 \$/t	8 \$/t	42-482 \$/t	3392 \$/t	7959 \$/t	94,5 \$/t	315 \$/t
Norway	355 \$/t	355 \$/t	0%	297 \$/t	3812 \$/t	5380 \$/t	4107 \$/t	4285 \$/t
Israël	50%	50%	0%	0-593 \$/t	85%	0%	30%	1289 \$/t
China	65%	65%	65%	65%	10%	25%	20%	20%
India	0%	0%	70%	50%	60%	30%	30%	30%
Turkey	80%	70%	45%	130%	150%	225%	225%	65%
Thailand	0%	0%	30%+87\$/t	30%+87\$/t	30%	50%	40%	30%
South Korea	1,8%	3%	5%	328-630%	176%	40%	22-25%	18-22%
Mexico	67%	67%	0 ou 10%	0%	63%	25%	20%	234%
Mercosur	10%	10%	10%	8%	28%	10%	10%	10%
Kenya	0%	35%	35%	50%	60%	25%	25%	25%
South Africa	0%	0%	0%	0%	531 \$/t ou 96%	40%	15%	0%
ECOWAS	5%	5%	10%	5%	5%	20%	20%	20%

Source: WTO data base on applied tariffs (<http://tariffanalysis.wto.org/QueryEdit.aspx>)

And we should not forget that, besides the EU much higher level of import protection than ACPs on their basic staples, its huge domestic subsidies having compensated the drop in farm prices have had a large import-substitution effect, reducing the need for agro-industries to import as they could buy on the internal market at prices closer to world prices.

Incidentally WA farmers should draw a good lesson from a comparison with Kenya for their dairy performances, which are closely related to the level of their respective tariffs. Kenya has risen its tariff on concentrated milk from 25% in 2000 and 2001 to 35% in 2002 and 2003 then at 60% from 2004 on, and its dairy trade balance followed suit: a decreasing deficit from 2000 to 2004 and a rising surplus after 2005, the lower surplus in 2008 and 2009 being due to the preference for domestic consumption. At the same time the WA tariff has remained at 5%. Indeed concentrated milk (essentially powder milk) constituted 88.5% of all dairy imports of Kenya on average from 2000 to 2009 and 93.3% of WA.

Table 4 – Huge contrast between cow milk production and consumption between WA and Kenya: 2000-10

	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010	2010/95
Cow milk production in tonnes												
WA	1454215	1563904	1567011	1613356	1716488	1786908	1877378	1836994	1919570	2002986	2067614	+42,2%
Kenya	2224000	2444150	2811950	2819500	2829900	2650000	3500000	4230000	3990000	4070000	5157000	+132%
Number of dairy cows												
WA	6622219	6971008	7060664	7279215	7602051	7947206	8342010	8243089	8349330	8898574	9082700	+37,2%
Kenya	4690000	4000000	4000000	5375500	5500000	5857140	6200000	7500000	7200000	7330000	9350000	+99,4%
Milk yield in litres/cow												
WA	220	224	222	222	226	225	225	223	230	225	228	
Kenya	474	611	703	525	515	452	565	564	554	555	552	
Population in 1000 inhabitants												
WA	235722	241718	247893	254252	260799	267541	274480	281623	288967	296515	304263	+29,1%
Kenya	31254	32076	32928	33805	34702	35615	36541	37485	38455	39462	40513	+29,6%
Total consumption (production + imports – exports)												
WA	2462891	2615995	2697608	2989523	3226369	3315013	3693142	5040403	3574055	3821442		+55,2%*
Kenya	2235847	2471421	2819228	2820429	2832931	2640302	3489228	4205384	3970233	4069483		+82%*
Per capita consumption in kg												
WA	10,4	10,8	10,9	11,8	12,4	12,4	13,5	17,9	12,4	12,9		+24%*
Kenya	71,5	77	85,6	83,4	81,6	74,1	95,5	112,2	103,2	103,1		+44,2%*

Source : Faostat. * from 2000 to 2009.

Table 5 – The opposite trade performance in dairy products of Kenya and WA linked to their tariff levels

	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009	Average	2009/95
Afrique de l'Ouest en tonnes d'équivalent lait												
Balance	-1008676	-1052091	-1130597	-1376167	-1509881	-1528105	-1815764	-3203409	-1654485	-1818456	1463421	+80,3%
Balance/production	69,4%	67,3%	72,1	85,3%	87,9%	85,5%	96,8%	174,4%	86,2%	90,8%	70,8%	
Kenya en tonnes d'équivalent lait												
Balance	-11847	-27271	-7278	-929	-3031	9698	10772	24616	19767	517	41	
Balance/production	532,7%	1116%	258,8%	32,9%	107,1%	366%	307,8%	581,9%	495,4%	12,7%	#0	
Dairy trade balance in 1000 dollars												
WA	-307375	-340646	-344921	-464808	-575210	-654653	-712015	-1457115	-958813	-782031	-597781	+154,4%
Kenya	-3980	-8507	-2101	-19	-1266	1755	4142	11563	9129	2081	1164	+414,4%
Tariff on milk powder												
AO	5%	5%	5%	5%	5%	5%	5%	5%	5%	5%	5%	
Kenya	25%	25%	35%	35%	60%	60%	60%	60%	60%	60%	60%	

Source: Faostat

2.2 – The EPAs would prevent any progress towards regional integration in SSA

It is contradictory to pursue an increased integration within regional economic communities (RECs) in SSA and reduce simultaneously the level of import protection on more competitive products coming from the rest of the world. All regional groupings, beginning by the EU, have begun by maintaining or increasing their protection vis-à-vis the rest of the world to render more competitive the internal trade within the common market so that in few years the percentage of intra-trade in agricultural products has exceeded the extra-EU trade, owing to a deterrent level of tariffs or variable levies.

Let us now quote extensively the main arguments of Benjamin W. Mkapa's speech in Arusha: *"There are several options:*

1) Kenya signs the EPA alone, so that it can retain its preferences in flowers and fish. This would destroy the EAC customs union. The LDCs would not be able to open up their markets to Kenya if they do not want EU goods to flood their internal markets.

2) *The entire EAC region signs the EPA – LDCs in the WTO which do not have to take tariff cuts in WTO trade liberalization rounds will have to cut their tariffs to zero for at least 80% of trade with the EU. This will have deep ramifications on the ability of the region to industrialize. Given that the EU remains a major food exporter and still subsidizes its agricultural sector to the tune of 60 billion Euros a year, (despite EAC excluding some agricultural tariff lines from liberalization) this could shrink the size of the local markets that our small farmers sell on.*

3) *Or should the entire region not sign the EPA? Under this option Kenya would lose its preferences on flowers. But how important is this sector, in comparison to opening up the EAC market to EU and the real threat of not being able to industrialize in the future? Are there alternatives that could be considered?...*

If African countries in EPAs have to liberalize 80% of trade as proposed by the EU, Africa's regional markets risk being taken over by EU products. The opportunity to increase intra-African trade, diversity and industrialize will be significantly reduced...

Since about 2007, the intra-African market has surpassed the EU market as the biggest export market for EAC countries. EAC's total exports to the EU amounted to USD 2.5 billion 2008, whilst exports to Africa came to about USD 3.2 billion.

When one looks at EAC's manufactured exports, the importance of the intra-African market becomes even more apparent. In value terms, manufactured exports amount to USD 164 million to the EU compared to USD 1.8 billion to the rest of Africa (UNCTADstats for 2009 trade). It is therefore clear that for our EAC countries to diversify and industrialize, this internal EAC and African market provides the best opportunity. In contrast, the bulk of our exports to the EU are primary commodities with nil or low levels of processing eg. minerals, horticulture, fish etc. What these statistics show is that intra-African trade is not in fact a second best option, but the best option for EAC countries. If we sign the EPA (and other sub-regions do so too), we would be giving up the better option we have before us – which allows for real industrialization - rather than this continuation of primary product exports."

The same would occur for ECOWAS if Ghana would ratify the EPA as "*more than 90 per cent of Ghana's most dynamic manufacturing exports go to the West Africa sub-region... The EPAs directly undermine this*"²⁰. Ghana would lose \$378 M in import duties if it has to eliminate them on 80% of its imports from the EU whereas it would lose only \$58 M in its exports to the EU²¹. The net loss for Ivory Coast would be close to that of Ghana and above all the 11 ECOWAS LDCs would be the greatest losers as the free movements of goods within the ECOWAS market would mean that they could no longer tax their imports from the EU. And Nigeria would lose \$478 M and had even refuse to sign an interim EPA²².

III – Implementing the EPA is not a WTO requirement

3.1 – Let us begin by the concrete example of bananas

The Latin-American (LA) countries exporting "dollar bananas" have been practically the only GATT-WTO Members to oppose the continuation of the Lomé trade preferences for the ACPs since the early 90s (besides India for other products). Each time the EU was condemned at the WTO: in February 1994 and April 1996 (Appellate Body) which obliged the EU to reform its banana CMO in January 1999 but, as the EU did not comply, the US got trade retaliations of \$191 M against the EU, and then Ecuador got also trade sanctions of \$202 M in 2000 against

²⁰ <http://opinion.myjoyonline.com/pages/feature/201108/71918.php>

²¹ <http://www.bilaterals.org/spip.php?article21540>; <http://www.bilaterals.org/spip.php?article21550>

²² http://www.bilaterals.org/article.php3?id_article=12164

the EU. So the EU reformed its CMO in January 2001 to be transformed into a tariff-only import regime the 1st January 2006. The US and Ecuador did not agree with this regime. In 2005 several LA countries challenged the new regime, particularly the tariff quota to ACP of 775,000 tonnes at zero duty which did not comply with the waiver obtained for ACPs in 2001 in Doha. New complaints against the EU were launched by LA countries in 2006 and 2007. Then an agreement was concluded at the WTO in December 2009 by which the EU committed itself to drop its MFN tariff from \$176/ t to \$114/t by 2016 and the LA agreed not to sue any longer the EU on bananas. ACP growers will get €190 M to compensate the negative effects the pact may have over the period 2010-13 on their preferential treatment with the EU to enhance their competitiveness and diversify their economy²³. Well, but after 2013?

However in 2010 the EU concluded bilateral agreements with Colombia and Peru and, later, with Costa Rica, El Salvador, Honduras, Guatemala, Nicaragua and Panama with concessions on bananas: the EU agreed to progressively reduce its import tariff on bananas originating in these countries to 75 €/t by 1 January 2020, instead of 114 €/t, so that their preferential margin will increase progressively from 3 €/t in 2010 to 39 €/t from 2020 on. As a result other MFN exporters to the EU, as well as ACPs and LDCs, would see their relative competitiveness fall: they will export less to the EU and receive a lower price for their exports. Including the ACPs LDCs and non-LDCs having signed interim EPAs, which can access the EU market tariff-free-quota-free (TFQF), given their lower competitiveness vis-à-vis dollar-bananas. It is the case of Ivory coast where *"annual exports of bananas... were expected to fall by 14% from the present level of 230,000 tonnes, as a result of the new tariff concession for Latin American banana suppliers"*²⁴ and, *"while in January 2011 the European Parliament's trade committee approved the December 2009 banana deal, 'both the GUE/NGL and Greens/EFA groups voted against granting Parliament's consent', taking the view that 'the deal would jeopardise the basic rights of small producers by strengthening the monopoly position of big US multinationals controlling the banana market in Latin American countries'"*. In fact bananas exports to the EU from Cameroon, Ivory Coast and Ghana – which had all signed interim EPAs – have decreased from 543,000 tonnes in 2008 to 508,000 tonnes in 2011, the fall in revenues being even larger, from €378 M to €309 M. Clearly the banana war will continue.

This war illustrates the EU lie to the LDCs and ACPs having signed or pressured to sign EPAs given the perpetual erosion of their trade preferences resulting from additional trade concessions linked to EU new bilateral trade agreements. Thus *"Tariff concessions for Indian bananas under the forthcoming EU–India FTA could potentially have a bearing on the relative attractiveness of EU markets"*²⁵. Incidentally the erosion is also at play for the EU farmers and agro-industries when the EU grants new TRQs on sugar, bovine meats and a lot of other products. Clearly we cannot accredit the EU trade Commissioner Karel De Gucht when he told the EU ACP Parliamentary Assembly the 29 May 2012: *"EPAs will first and foremost lock in broad duty-free and quota-free access to the European Union's market of 500 million consumers. The temporary solutions currently in place in the Market Access regulation do not allow exporters to plan for the future. EPAs will provide vital certainty"*²⁶.

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<http://europa.eu/rapid/pressReleasesAction.do?reference=IP/10/287&format=HTML&aged=0&language=EN&guiLanguage=en>

²⁴ <http://agritrade.cta.int/Agriculture/Commodities/Bananas/Executive-Brief-Update-2011-Banana-sector>

²⁵ <http://agritrade.cta.int/Agriculture/Commodities/Bananas/Executive-Brief-Update-2011-Banana-sector>

²⁶ <http://europa.eu/rapid/pressReleasesAction.do?reference=SPEECH/12/397&type=HTML>

3.2 – The ways out of this dilemma

3.2.1 – Solidarity funds within RECs

Yet there is a way out of this EU Damocles's sword hanging over the non LDCs ACPs which are tempted to ratify their interim EPAs before the 1st January 2014 in order to secure their DFQF agricultural exports to the EU, not only on bananas but also on pineapples, flowers, fish... And this way out has been proposed by ECOWAS and the EAC: because the higher duties these countries would have to face on the EU market if the EPAs are not ratified are much lower than the losses of tariff revenues they would endure themselves, and even more their partner countries in ECOWAS and EAC, regional solidarity funds would be given to Ivory Coast, Ghana and Kenya to cover their higher duties on the EU market. Thus, for Benjamin W. Mkapa: *"Tariff revenue losses per year, based on recent trade figures, would be around the tune of EUR 138.4 million for Kenya. In contrast import duties on all Kenyan exports under GSP amount to EUR 43.8 million, according to the Commission proposal to remove countries from the Market Access Regulation 1528/2007. This would even be lower if Kenya, just as Cape Verde, would apply for GSP+. (In that case, only a few products would be charged duties, mainly pineapple juice)"*.

In ECOWAS also *"The Solidarity Fund will compensate Ghana, Cote d'Ivoire and Cape Verde on export losses in case a regional consensus on EPAs is not reached by 1st January 2014"*²⁷. And *"Latest estimates show that Ghana's extra costs for temporarily trading under the EU GSP (as Nigeria has opted to do instead of entering an IEPA) will be in the region of €37.1million or USD \$51.9 million. An ECOWAS Solidarity Fund should be able to absorb this. In the face of the threat to ECOWAS unity and coherence posed by Ghana's currently delicate position this is absolutely justified and is a necessary first step for ECOWAS to begin to take full responsibility for its own destiny. None of this is to suggest that the EU should be allowed to shirk its primary responsibility to meet adjustment and development costs. On the contrary, it is one way of establishing the fact that meeting those costs is fundamental and non-negotiable for ECOWAS and the EU will not be allowed to hold our sub-region to ransom over this"*²⁸.

3.2.2 – Legal arguments

Well, but are all these suggestions compatible with the WTO and non-opened to new pursuits by other DCs members such as India which won a dispute over the GSP+ status granted to 12 Latin American countries combatting drug trafficking?

A first, political, answer is given by Benjamin W. Mkapa: *"At the Trade Ministers' meeting in Accra, December 2011, ministers adopted an AUC trade preferences proposal 'Proposal for a Common and Enhanced Trade Preference System for Least Developed Countries (LDCs) and Low Income Countries (LICs)'. It calls upon international partners to extend duty free quota free treatment to LDCs and LDC regions in order to support and promote regional integration. (This approach is fully WTO-compatible.) 'LDC regions' are regions where the majority of members are LDCs"*.

A second, legal, answer is given by Robert Howse, a prominent specialist in WTO law, commenting the India-EU case on GSP+, where he criticises both the EU and India's

²⁷ <http://www.bilaterals.org/spip.php?article21458>

²⁸ <http://www.trademarksa.org/news/statement-west-african-civil-society-platform-cotonou-agreement>

deficiencies in their legal interpretation of the Enabling Clause and that we will quote extensively. Before less us remember that GATT article XXXVI.8, repeated in the Enabling clause of 1979, states that "*The developed contracting parties do not expect reciprocity for commitments made by them in trade negotiations to reduce or remove tariffs and other barriers to the trade of less-developed contracting parties*". Indeed the EU had invoked in the past this article XXXVI to justify its unilateral trade preferences of the Lome Conventions 1, 2 and 3²⁹. Therefore article XXIV must be interpreted in a way compatible with article XXXVI. It is precisely what Robert Howse argues:

"What is important is that the Enabling Clause does not function as a waiver, although it is often referred to by that term in general and nontechnical discussions of GSP. Article XXV of GATT refers to waivers of an obligation "imposed upon a contracting party" (emphasis added) in "exceptional circumstances." The Enabling Clause does not mention any exceptional circumstances, nor does it name any particular member state. It is not called a waiver on its face. It is not temporary, as the "exceptional circumstances" language would imply. It is not listed among the list of Article XXV waivers in the relevant GATT/WTO instruments. The idea of the Enabling Clause is not simply forbearance of a particular member state's non-compliance with the existing law of GATT; the Enabling Clause instead "enables" what has become a basic tenet of the international economic legal order, namely special and differential treatment of developing countries. It modifies the existing law of GATT to enable the concept already announced in Part IV and reflected in numerous declarations and other instruments of the United Nations Conference on Trade and Development ("UNCTAD") and the United Nations Social and Economic Council. Rather than an exception to GATT, the Enabling Clause is an integral part of GATT legal system. For these reasons, it would be inappropriate to apply to the interpretation of the Enabling Clause the narrow or strict reading of waivers that the Appellate Body promulgates in the Bananas case. This relates as well to the actual language in Paragraph 1 of the Enabling Clause. Unlike, for example, the Lome Waiver at issue in Bananas, Paragraph 1 does not use language such as "to the extent necessary"—rather the formula employed is "[n]otwithstanding the provisions of Article I." A developed country WTO Member does not have to prove that each aspect of its deviation from the strictures of Article I is necessary in order to grant differential and more favorable treatment to developing countries. Rather, GSP operates "notwithstanding" Article I entirely"³⁰. This long quotation means that, despite the Appellate Body ruling in favour of India, the EU could develop strong legal arguments, together with ACPs, to extend its DFQF preferences to all ACPs Regional Economic Communities where LDCs represent, if not always the largest share of the RECs' external trade or GDP, at least the majority of population.

3.3 – Many issues show that the EPAs and the EU itself contradict WTO rules

Benjamin W. Mkapa again reminds most of the reasons advanced by ACPs: "*There should be no Singapore issues (binding rules on investment, competition and government procurement) in the EPA – they are not in the WTO. There should be no services commitments by Africa or EAC beyond what they do at WTO – services liberalization is completely voluntary in the WTO. Countries liberalize as much or little as they wish, at their own timing. There must not be any TRIPS plus commitments. On goods what is not required in WTO (i.e. banning export taxes, inserting the MFN clause, standstill clause etc) should not be required in the EPA. Furthermore on goods, LDCs and Kenya and other African countries in the EPA negotiations should not do more than what Doha requires. In the Doha negotiations, LDCs need not liberalize, and Kenya has many flexibilities"*.

²⁹ <http://www.fao.org/tc/Tca/pubs/TMAP41/41chap7.htm>

³⁰ <http://www.worldtradelaw.net/articles/howsegsppdrugs.pdf>

But we can advance other good reasons why the EPA texts contradict the WTO rules.

3.3.1 – The EU has refused to deal with the basic issue of agricultural subsidies in the EPAs texts

The EU claimed that this issue is of the exclusive domain of the WTO Agreement on Agriculture (AoA). This issue is all the more crucial that the EU agricultural products are exported with a high dumping – particularly those imported by ECOWAS: wheat and flour, dairy produce, poultry meat, tomato paste, etc. – even if this dumping is now much less due to formal export subsidies (refunds), which have almost disappeared: from €10.2 bn in 1993 to €5.6 billion in 2000 and €179 M in 2011. The dumping is now due to the huge domestic subsidies which benefit as well to the exported products even if most of them are hidden in the alleged green box SPS. Yet the WTO Appellate Body has ruled on several occasions since the Dairy Products of Canada case of December 2001 that domestic agricultural subsidies should be taken into account to assess dumping. Let us consider, as examples, those of the EU cereals, dairy products and meats, particularly detrimental for WA.

3.3.1.1 – The EU dumping of cereals in 2006

The EU-27 has exported 27.345 Mt or 10.26% of a production of 266.5 Mt, of which 17.559 Mt of raw cereals and 9.786 Mt of cereals included in processed products: wheat flour, flour of other cereals, groats and semolinas, otherwise processed grains and of cereals germs, feedstuffs, malt, beer, whisky, wheat gluten and cereals preparations (starch, biscuits, pastry, breads, etc.). Total subsidies have reached €1.960 billion, within which the €206 million of export refunds – of which €129 M in direct refunds to cereals and €77 M to cereals in processed products outside annex 1 – have represented only 10.5% and the €1.754 billion of domestic subsidies to the exported cereals have represented 89.5%. As the value of the exported cereals were of €3.583 billion – of which €2.301 billion for the 17.559 Mt of cereals exported raw, at 131 €/t on average, and €1.282 billion for the 9.786 Mt linked to the processed cereals, the average dumping rate has been of 54.7%³¹. Let us stress that the cereals included in the exported processed products have been valued at the same average price (131 €/t) as the exported raw cereals in 2006.

3.3.1.2 – The EU dumping of dairy products from 2000 to 2010

Table 6 presents the successive lines allowing to calculate the dumping rate: production and exports in value and quantity in milk-equivalent, export refunds, total and per tonne domestic specific and non-specific subsidies. We get to an average of €168.6 per tonne of milk-equivalent exported on average from 2000 à 2010, when we take account of the non-specific subsidies and of €22.3/t for specific subsidies only. Compared to the average value of €431 per tonne of milk-equivalent exports, this represented an average dumping of 38.5% with non-specific subsidies and of 27.9% for specific subsidies only. The two main posts of specific aids are the direct payments to milk producers from 2005 and those to the feed of EU origin consumed by dairy cows. The non-specific subsidies (NSS) are those of the non-specific amber box and traditional green box which are allocated to milk in the same proportion as the share of milk production value in the whole agricultural production value.

³¹ <http://www.solidarite.asso.fr/IMG/pdf/The-dumping-rate-of-the-UE-27-exported-cereals-in-2006.pdf>

Table 6 – Subsidies to the EU exported dairy products, in milk-equivalent, from 2000 to 2010

Million tonnes, €M	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010	Moyenne
Production : Mt	121,2	121,4	122,2	122,6	142,3	143,0	141,7	148,2	149,4	149,5	151,2	137,5
Exports : "	15,3	12,4	12,7	13,5	14,5	14,1	12,4	12,2	12,2	12,6	14,4	13,3
Production value	38399	41020	38990	38283	41816	42002	41259	48384	52631	41592	47076	42859
Exports value	5294	5298	4877	4869	5422	5552	5355	6691	7035	5733	7774	5825
" /production (%)	13,79	12,92	12,51	12,72	12,97	13,22	12,98	13,83	13,37	13,78	16,51	13,59
Specific domestic subsid.	2533	2680	3119	3244	2150	3752	4075	6772	6663	7005	7405	4492
" to exports	349	346	390	413	279	496	529	937	891	965	1223	610
Export refunds	1953	1297	1339	1799	1699	1284	939	428	35	203	198	1016
Total specific subs/exports	2302	1643	1729	2212	1978	1767	1468	1365	926	1168	1421	1626
" per tonne (€)	150,5	132,5	136,1	163,9	136,4	125,3	118,4	111,9	75,9	92,7	98,7	122,3
NSS/exports	574	559	508	521	546	597	588	639	716	663	852	616
" per tonne	37,5	45,1	40,0	38,6	37,7	42,3	47,4	52,4	58,7	52,6	59,2	46,3
Total subsidies/exports	2876	2202	2237	2733	2524	2364	2056	2004	1642	1831	2273	2242
" per tonne (€)	188,0	177,6	176,1	202,5	174,1	167,6	165,8	164,3	134,6	145,3	157,9	168,6
Dumping rate (spec.subs)	43.5%	31%	35.5%	45.4%	36.5%	31.8%	27.4%	20.4%	13.2%	20.4%	18.3%	27.9%
Total dumping rate	54,3%	41,6%	45,9%	56,1%	46,6%	42,6%	38,4%	30,0%	23,3%	31,9%	29,2%	38,5%

3.3.1.3 – The EU15 dumping on meats from 2006 to 2008

Table 7 presents the synthesis of the dumping rates of the EU15 exports of meats, including processed meats, in carcass-weight equivalent. 10.9% of meats were exported – of which 4.3% of bovine meat, 15% of pig meat and 13.7% of poultry meat and eggs. The average dumping rate, measured by the ratio of total subsidies to the export value, was of 33%, of which 58% for bovine meat, 29.5% for pig meat and 35% for poultry meat and eggs. The main subsidies are on feed, particularly for pig and poultry meats which do not avail of direct payments as bovine meat. As export refunds have decreased a lot in that period, the percentage of domestic subsidies was of 97.3% for pig meat, 83.7% for bovine meat and 82.8% for poultry meat-eggs.

Table 7 – The average dumping rates of EU15 exports of meats and eggs in 2006-08

Meats	Production in 1000 cwe			Production in €1000			Domestic subsidies in €1000				Refunds/ Exports	Total sub/exp	Dumping rate
	Total	Export	Exp/prod.	Total	Exp.	Exp./prod.	SS	NSS	Total	sur export			
Bovine	7287	309	4,25%	25702	591	2,30%	9632	2900	12532	288	56	344	58,2%
Pig	18678	2795	14,96%	25735	4709	18,30%	4223	3175	7398	1354	37	1391	29,5%
Poultry-egg	14327	1269	13,66%	17297	1533	8,86%	2882	2124	5006	444	92	536	35,0%
Total	40292	4373	10,85%	68734	6833	9,94%	16737	8199	24936	2086	185	2271	33,2%

Sources: Eurostat; SNS : subventions non spécifiques

Table 8 takes only into account the specific subsidies, which lowers the dumping rates at 21% for all meats, of which 47% for bovine meat, 17.2% for pig meat and 22.6% for poultry&eggs.

Table 8 – The average dumping rates of EU15 exports of meats, specific-subsidies only

Meats	Production in 1000 cwe			Production in €1000			PS domestic subsidies in €1000		Refunds/ export.	Total sub/exp	Dumping rate
	Total	Export	Exp/prod.	Total	Export.	Exp./prod.	Total	sur exportations			
Bovine	7287	309	4,25%	25702	591	2,30%	9632	222	56	278	47,0%
Pig	18678	2795	14,96%	25735	4709	18,30%	4223	773	37	810	17,2%
Poultry-egg	14327	1269	13,66%	17297	1533	8,86%	2882	255	92	347	22,6%
Total	40292	4373	10,85%	68734	6833	9,94%	16737	1250	185	1435	21,0%

Table 9 shows that, per tonne of carcass-weight equivalent, total subsidies (specific and non-specific) to exports were on average, from 2006 to 2008, of €19 par all meats and eggs, of which €113 for bovine meat, €498 for pig meat and €422 for poultry meat and eggs. Considering only specific subsidies gives €328 for all meats and eggs, of which €900 for bovine meat, €290 for pig meat and €273 for poultry met and eggs.

Table 9 – EU15 subsidies to meats exports per tonne of carcass-weight equivalent: 2006-08

	Total	Bovine meat	Pig meat	Poultry meat & eggs
Exports in tonne of carcass-weight equivalent: M t	4373	309	2795	1269
Total subsidies to exports: €M	2271	344	1391	536
Subsidy in €per tonne carcass-weight equivalent	519	1113	498	422
Specific subsidies to export: M €	1435	278	810	347
Specific subsidies in €/tonne carcass-weight equiv	328	900	290	273

To conclude on agricultural subsidies, as the EU has repeated that this issue can only be dealt with at the WTO level, the ACPs should not sign the EPA before the conclusion of the Doha Round where this issue is a key component and was even its main stumbling block.

3.3.2 – West Africa should liberalize at most 42.3% of its imports from the EU given that its 12 LDCs are exempted from tariff reduction

As the EU EBA permits the LDCs ACPs not to open their markets to EU exports, the 12 LDCs of West Africa (11 from ECOWAS plus Mauritania) are not obliged to reduce their tariffs on their imports from the EU. Therefore, as the EU and the WTO admit that a free trade agreement implies an elimination of tariffs of 90% in both ways (imports + exports) and as the EU has admitted that ACPs will have to liberalize their markets by only 80% since the EU will fully liberalize (at 100%) its imports from ACPs – which does not imply a significant effort since they are already liberalized by 97% –, we have to introduce into this equation the specific concessions for LDCs made by the EU and the WTO. Therefore, as the 12 West Africa LDCs' imports from the EU represent 37.7% of its total imports³², West Africa should only liberalize 42.3% (80% - 37.7%) of its imports from the EU in its EPA.

3.3.3 – Signing the EPA before the Doha Round completion would reduce much the safeguards measures of ACPs CERs

The WTO Revised Draft on modalities for agriculture of 6 December 2008 has proposed that 12% of agricultural tariff lines (TL) could be self-designated by DCs as "Special Products" (SPs) submitted to lower reductions by DCs on the basis of indicators and that 5% of TL would not be submitted to any reduction, even if these WTO proposals are short of the G-33 demands of 20% of TL as SPs, of which 10% exempt of tariff cut, 5% subject to a 5% tariff cut and 5% to a 10% tariff cut. Besides, the Revised Draft foresees also, beyond the SPs, "*Developing country Members shall have the right to designate up to one-third more of tariff lines as "Sensitive Products"*", that is 5.3% of TL since the proposal for the developed countries is of 4%. On the other hand the "Special Safeguard Mechanism" (SSM) should offer to DCs an advantage at least as high as does the "Special Agricultural Safeguard" (SSG) of the AoA article 5 which benefits in practice only to the developed countries, and particularly to the EU and US.

As the SPs, the sensitive products and the SSM would be available to all WTO developing Members, the additional protection they would enjoy would be *erga omnes* and not challengeable – as long as they would be conform to the agreed criteria. Therefore this additional protection should not count in the level of tariffs reduction required for ECOWAS in the EPA. Otherwise DCs more advanced than ACPs, particularly than ECOWAS, would enjoy a higher level of protection through the SPs and SSM than the ACPs vis-à-vis the EU exports.

The necessity for ECOWAS to avail of the SPs and SSM is all the more founded that the safeguard provisions in the interim EPAs of Ghana and Ivory Coast are more restrictive than those of the AoA "Special Agricultural Safeguard" (SSG) available only to the EU. Indeed if the SSG can be triggered by increased imports volumes or by slumps in import prices, the interim EPAs safeguard can only be triggered by increased imports volumes. And, in that case, the additional duties cannot exceed in the EPAs "*the applied most-favoured-nation customs duty*", whereas for the SSG used by the EU the additional duty can exceed up to "*one third of*

³² Jacques Gallezot, *Le choix régional des produits sensibles à l'APE soumis au jugement majoritaire des pays de l'Afrique de l'Ouest*, INRA & AgroParisTech, Octobre 2007.

the level of the ordinary customs duty in effect in the year in which the action is taken". As the EU applied agricultural tariffs are equal to its bound tariffs, the EU can exceed by one third its bound tariffs on 31% of its tariff lines covered by the SSG, knowing that the SSG does not cap the number of tariff lines which can be invoked in a given year.

Besides, the interim EPAs provisions state that the safeguard measures cannot exceed two years or at most another two years period if the reasons for the volume trigger still hold at the end of the first two years. However FAO has shown that *"There are some cases where a SSG has been triggered for some products on an almost permanent basis, i.e. every year since 1995"*. The necessity of the prices trigger in the EPA is all the more obvious that, as seen above, the EU has artificially lowered its domestic prices through huge compensatory domestic subsidies.

Capping the EPAs safeguard measures to the applied MFN (most favoured nation) tariff is particularly detrimental for ECOWAS as they would be much below the contemplated Import Safeguard Tax (IST) in the new ECOWAS CET (common external tariff). Indeed not only the IST could be triggered for slumps in import prices as for surges in import volumes but also *"The rate of additional duty under the IST will be either 100% of the amount of price reduction on imports, or 50% of the percentage surge in import volume, whichever is higher. This additional duty will be assessed as a percentage of the c.i.f. unit value of the imported product, alongside the relevant customs duty and other applicable fees and taxes (Statistical Fee, Community Levy, Value Added Tax, excise taxes, etc)"*³³.

The necessity for ECOWAS to avail of the SPs and SSM before signing any EPA is all the more acute that ECOWAS has not yet bound its agricultural common external tariff (CET) which would allow it, instead of using safeguards, to raise the applied tariffs of the vulnerable products. Indeed FAO has shown that one of the reasons why most of the 22 DCs which could avail of the SSG did not actually use it was because *"the levels of the bound tariffs were high enough for countries to raise applied rates to the extent required to offset the effects of depressed import prices and import surges. There is some evidence that many countries followed this approach, in particular during 1998-2000, when world market prices of several basic foods declined to low level"*³⁴. The EU had the cheek when, *"In response the current ECOWAS working formula to introduce a 5th Band at 35%, the EU has objected that this will contravene commitments made by UEMOA members in the WTO"*. Indeed, as long as WAEMU and ECOWAS have not yet bound their common external tariff (CET) at the WTO their Member states enjoy national bound tariffs of an average of about 100%.

3.3.4 – The ACPs cannot sign EPAs without knowing the erosion of their trade preferences on the EU market.

The EPAs have been sold to the ACPs as a way to stabilize their preferential access to the EU market, and even to increase it as the EU would import duty free and quota free all ACPs' exports against only 97% of them today and with still some low tariffs and quotas. Yet this will turn out as an empty vow as the conclusion of the Doha Round and of on-going negotiations of

³³ ECOWAS Common External Tariff – Accompanying Measures, An Introduction, ROPPA Ouagadougou seminar on sensitive products, January 2007.

³⁴ FAO, A special safeguard mechanism for developing countries, <ftp://ftp.fao.org/docrep/fao/008/j5425e/j5425e01.pdf>

new bilateral free-trade agreements between the EU and countries more competitive than the ACPs will erode much their preferential access to the EU market.

3.3.5 – The ACPs should not reduce their tariffs at lower levels than the EU on basic food staples

We will not come back on this issue dealt with above.

IV – The UE should begin by abiding itself by the WTO rules

We will not repeat in details what Solidarité, among others, has already shown at length but we only mention the main points on which the EU contradict the WTO rules, particularly the AoA rules. We will limit ourselves to remind why the CAP subsidies are incompatible with the WTO Agreement on agriculture³⁵:

I – The EU authorized OTDS (overall trade-distorting domestic support) is lower than that it has calculated

- The product-specific *de minimis* (PSdm) support is not of 5% of the value of the whole agricultural production as the non-product-specific *de minimis* (NPSdm) support
- The EU' refusal to take into account the subsidies to feedstuffs is not legally justified

II – The EU applied OTDS is considerably larger than that notified

- The EU PS AMS was on average of €61 bn in the base period 1995-2000, not of €48.4 bn as notified
- The SPS (single payment scheme) and the BB (blue box) are coupled, hence subjected to reduction
- The subsidies of the non-product-specific AMS have been hugely under-notified to the WTO whereas some were correctly notified to OECD
- The average applied OTDS in 2006-07 was of €80.6 bn.
- The bulk of the PS AMS is not made of subsidies but of fake market price supports
- The whole green box has trade-distorting effects on exports

Let us conclude with Wallie Roux: "*The crux of the matter should rather be for the EC to go back to the drawing board to assess their failures in the EPA negotiation process and to purposefully restructure their approach to foster regional integration in especially Africa. This would at least build a new trust for the way forward*"³⁶.

³⁵ J. Berthelot, *The CAP subsidies are incompatible with the WTO Agreement on agriculture*, 31 March-1st April 2010, <http://www.solidarite.asso.fr/IMG/pdf/CAP-subsidies-incompatible-with-the-WTO-AoA.pdf>

³⁶ <http://www.republikein.com.na/die-mark/epa-where-are-we-heading.148610.php>