Urgent mobilisation against the signing of the Samoa Agreement to succeed the Cotonou Agreement

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Summary

The Cotonou Agreement linking the ACP (African, Caribbean and Pacific) countries to the European Union (EU) has been extended until formal signature of the Samoa Agreement by the EU Council of Ministers and the European Parliament in November 2021 and by the ACP Heads of State, for implementation in January 2022.

Given the very negative record of the EPAs in West Africa (WA) where the interim EPAs (EPAi) of Côte d'Ivoire and Ghana, implemented since the end of 2016, are destroying the regional integration process, it would be contradictory for the WA Presidents to sign the Samoa Agreement, in particular for that of Nigeria who refused to sign the regional EPA. Indeed this new agreement is based on a deepening of the EPAs, their extension to the so-called Singapore issues: services, competition, public procurement, intellectual property and investment.

Given the anticipated increase in the population of WA from 2021 to 2027, the EU aid would amount to 3.40 euros per capita per year, a derisory level which would be negative if one deducts EU subsidies to its exported products, the losses of customs duties and value added tax on products imported from the EU for countries having implemented EPAs, and the capital flight of corrupt leaders and multinationals, facilitated in the franc zone by the peg to the euro.

However the Samoa Agreement is violating several WTO provisions on the Special and Differentiated Treatment (SDT) to DCs and particularly to LDCs, when it claims that they will only be required to undertake commitments according to their development capabilities, while fixing a deadline to their implementation! The Samoa agreement violates several other SDT provisions, of which GATT article XXXVI and article 15 of the Agreement on agriculture.

But the EU largest violation of the SDT for lies in the obligation for the LDCs to remove their tariffs on 80% of EU exports, nullifying its Everything But Arms (EBA) Decision of 2001.

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The Cotonou Agreement linking the ACP (African, Caribbean and Pacific) countries to the European Union (EU) was in force from 23 June 2000 to 28 February 2020 but has been extended until formal signature by the EU Council of Ministers and the European Parliament in November 2021 and by the ACP Heads of State, for implementation in January 2022.

The Agreement was concluded[1] between the chief negotiators (foreign or trade ministers) in December 2020 and initialled on 15 April 2021 in Samoa by Togo's Foreign Minister, Robert

[1] chrome-extension://efaidnbmnnnibpcajpcglclefindmkaj/viewer.html?pdfurl=https%3A%2F%2Fec.europa.eu%2Finternational-partnerships%2Fsystem%2Ffiles%2Fnegotiated-agreement-text-initialled-by-eu-oacps-chief-negotiators-20210415_en.pdf&clen=1942332&chunk=true

Dussey, for OACPS (Organisation of African, Pacific and Caribbean States) and by Jutta Urpillainen, the EU Commissioner for International Partnerships.

Given the very negative record of the EPAs (Economic Partnership Agreements) for ACP countries, already in West Africa (WA) where the interim EPAs (EPAi) of Côte d'Ivoire and Ghana, implemented since the end of 2016, are destroying the regional integration process[2], it would be contradictory for the WA Presidents to sign the Samoa Agreement, in particular that of Nigeria, Muhamadou Buhari, who refused to sign the regional EPA. This new agreement is based on a deepening of the EPAs, their extension to the so-called Singapore issues: services, competition, public procurement, intellectual property and investment.

It was already Robert Dussey who adopted the ACP negotiating mandate on 30 May 2018 in Lomé[3], paragraph 61 of which states: "*Trade negotiations should aim at ensuring favourable terms of trade for ACP countries and regions, thereby enhancing the effectiveness of the Economic Partnership Agreements (EPAs) and other trade arrangements and cooperation frameworks that exist between the EU and ACP regions, as well as within and between ACP regions, such as... the African Continental Free Trade Agreement (AfCFTA)*". The agreement initialled on 15 April 2021 confirms: "*The Parties recognise the importance of broadening the scope of the EPAs and encouraging the accession of new Member States*", and the Specific Protocol for Sub-Saharan Africa adds: "*6. The Parties agree that the implementation of the EPAs, the African Continental Free Trade Area and other applicable trade agreements are complementary and mutually supportive, while contributing to the deepening of the regional and continental integration process… The parties... commit themselves to improving access for goods to the markets of Africa and the European Union... The parties cooperate to stimulate public and private investment, better link African and EU businesses in the agri-food sector, exchange best practices and bring together EU and African expertise for agricultural development*".

However, while the AfCFTA could be justified by the 2063 deadline set by the Lagos Plan of Action, it has been officially implemented extremely prematurely since January 2021, as no agreement has yet been reached on its basic rules on each State's tariff offers and on rules of origin. Thus, 90% of customs duties on intra-African trade will have to be eliminated in 10 years for LDCs and in 5 years for non-LDCs, which will benefit EU multinationals with a strong presence in Africa, which explains the political and financial support that the EU is giving to the AfCFTA. This is part of a strategy of catching up that has only led to a growing dependence on world markets and Western neo-colonial imperialism[4], and increasingly on an imperialist strategy subordinate to that of the Triad of large emerging countries, of which China. This strategy has only served the short-term interests of often corrupt and undemocratic African heads of State and they do not intend to change it, especially as they are under political and economic pressure from Western countries and their multinationals and have been misled by the economists of the multilateral institutions, the World Bank and the IMF having joined in 2020 its older promotion by UNCTAD and UNECA[5].

[2] Jacques Berthelot, *Did you say FREE trade? The Economic Partnership Agreement European Union-West Africa*, L'Harmattan, September 2018.

[3] https://www.bilaterals.org/IMG/pdf/istock_000019322566xlarge_edit_custom-9d4c4a33422ae3c4775983ae0de71646537c78c4-s900-c85.pdf

[4] *Résistances africaines à la domination néocoloniale*, Le Croquant, mars 2021.

[5] SOL, *L'extraversion croissante et suicidaire des échanges de l'Afrique*, 12 juin 2021, chrome-extension://efaidnbmnnnibpcajpcglclefindmkaj/viewer.html?pdfurl=https%3A%2F%2Fwww.sol-asso.fr%2Fwp-content%2Fuploads%2F2020%2F01%2FL%25E2%2580%2599extraversion-croissante-et-suicidaire-des-%25C3%25A9changes-de-l%25E2%2580%2599Afrique-12-juin-2021.pdf&clen=445526&chunk=true

For, on average from 2016 to 2020, Africa's trade with itself involved only 16.6% of its total exports and 13.9% of its total imports, of which 21.9% of its agricultural exports and 16.7% of its agricultural imports, and 24.1% of its food exports and 17.8% of its food imports. 35.1% of Africa's exports go to Europe (30.8% to the EU28) – of which 34.4% of its agricultural exports (28.1% to the EU28) and 38.6% of its food exports (28.7% to the EU28) – and 34.1% of its imports come from Europe (30.1% from the EU28), including 34.6% of its agricultural imports (25.8% from the EU28) and 33.2% of its food imports (23.9% from the EU28).

On the other hand, West Africa (WA) has every interest in strengthening its internal trade before extending it to the continental level (AfCFTA) or even to sub-Saharan Africa (SSA). On average from 2016 to 2020 the share of total intra-WA exports was 61.3% of its exports to Africa (63.4% to SSA), of which 82.6% of its agricultural exports to Africa (93.4% to SSA) and 82.3% of its food exports (89.8% to SSA). And the share of total intra-WA imports in those from Africa was 71% (80.8% from SSA), including 73.8% of its agricultural imports (84.4% from SSA) and 75.1% of its food imports (87.4% from SSA).

The Secretary General of OACPS, Georges Rebelo Pinto Chikoti, clarified on 15 July 2021 the funding foreseen for the Samoa Agreement: "*The EU has adopted a new financial instrument, the Neighbourhood, Development and International Cooperation Instrument (NDICI) - also known as "Global Europe", to replace the European Development Fund (EDF). For the next 7 years, from 2021 to 2027, the financial envelope is €29 billion for sub-Saharan Africa; €800 million for the Caribbean, and €500 million for the Pacific*"[6]. The replacement of the EDF by the NDICI[7] means that this budget will no longer be financed by the Member States outside the EU budget.

Taking into account the anticipated increase in the population of sub-Saharan Africa from 1.136 billion inhabitants (bn hb) in 2021 to 1.319 bn hb in 2027 and that of Western Africa from 413 million (M) hb to 481 M hb, the planned budget would be 3.40 euros per hb per year (a little less taking into account inflation), a derisory amount, lower than that of Lomé IV bis (from 1995 to 2000). But this 'aid' becomes negative if one deducts the sum of EU subsidies to its exported products, the losses of customs duties and VAT (value added tax) on products imported from the EU for ACP countries that have implemented EPAs, as well as the capital flight of both corrupt leaders and multinationals, facilitated in particular in the franc zone by the peg to the euro. Not to mention the breakdown of these funds between development aid and aid to curb migration to the EU and the return to SSA of "illegal" immigrants whose right to asylum has been denied. Let us add that the programmed "aid" from the EU per hb is higher for the ACP countries of the Caribbean (€3.70) and the Pacific (€5.07).

The EU is proud that, with 55% of UN member States (106, including 79 ACP and 27 EU, out of 193 in 2020), the Samoa Agreement will be a reference for all countries on the type of relations to be promoted between developed and developing countries in all areas. Jutta Urpillainen stressed that "*she hopes that the new agreement will strengthen our cooperation on the world stage, as the EU and OACPS represent more than 1.5 billion people and more than half of the seats in the United Nations*". The EU Commission adds: "*Global solutions to global challenges. The new Agreement will reinforce the OACPS-EU's capacity to act together on environmental and climate change challenges.* ***This is also true for other issues of global dimension, such as migration and***

[6] https://www.forumsec.org/2021/07/15/oacps-secretary-general-chikoti-addresses-pacific-oacps-trade-ministers/; https://www.touteleurope.eu/l-europe-et-moi/l-instrument-europeen-pour-le-voisinage-le-developpement-et-la-cooperation-internationale-ndici/

[7] https://occitanie-europe.eu/entree-en-vigueur-du-nouvel-instrument-de-voisinage-de-cooperation-au-developpement-et-de-cooperation-internationale/

mobility, but also peace and security, where stronger cooperation is needed. The new Agreement will be a powerful tool to advance the UN 2030 Agenda and the Sustainable Development Goals (SDG)"[8].

The Samoa Agreement is violating the WTO when stating that "*The Parties also recognise the innovative approach of special and differential treatment inherent in the WTO Trade Facilitation Agreement (TFA), which allows Least Developed Countries (LDCs) and developing countries to fully implement their commitments, subject to the provision of the requisite trade-related support*". In fact the Facilitation agreement is highly ambiguous as it states, on the one hand, that "*Least-developed country Members will only be required to undertake commitments to the extent consistent with their individual development, financial and trade needs or their administrative and institutional capabilities*" (article 13.3) while, on the other hand, articles 16 to 19 force them to notify the deadline when they would be able to implement the agreement owing to the provision of assistance and support for capacity building, as this assistance would be sufficient to change their capacity to implement the TFA! In any case the TFA forces the DCs and LDCs of WA to lower the costs of foreign trade to increase imports and exports while priority should be given to lower the cost on intra-WA trade to foster regional integration.

In reality the EU contradicts other WTO provisions on Special and Differential Treatment (SDT) for LDCs. Already paragraph 8 of Article XXXVI of the GATT states that, including for non-LDCs, "*Developed contracting parties shall not expect reciprocity for commitments made by them in trade negotiations to reduce or eliminate tariffs and other barriers to trade of less-developed contracting parties*". Furthermore, Article 15 of the Agreement on Agriculture on Special and Differential Treatment explicitly states that "*Least-developed country Members shall not be required to undertake reduction commitments*". Why then has the EU imposed that all States in each regional EPA, including LDCs, remove their tariffs on around 80% of EU exports, thereby nullifying the preferences of its 2001 Everything But Arms (EBA) Decision recognising LDCs as having free access to its market while still being able to tax EU exports? And this on the pretext of favouring the regional integration of each EPA if different trade regimes were maintained, since the free movement of products would oblige LDCs to tax imports from developing countries so as not to be invaded by products that the latter would import at zero duty from the EU.

However, a legal solution in line with EBA and WTO would be to deduct from the percentage to be liberalised in a regional EPA that of EU exports to LDCs. For the WA EPA 43.5% of EU exports to the 13 LDCs in 2015 would have been deducted from the 76.2% to be liberalised, which would fall to 32.7%, but the EU refused this legal interpretation detrimental to its trade objectives. The UK House of Commons International Development Committee had defended this possibility on 6 April 2005: "*We do not believe that things should be complicated for LDCs. The EPA should be a real option for LDCs. And they should not have to offer reciprocal market access to the EU until they lose their LDC status. The EPA should not be in contradiction with regional integration initiatives in ACP countries, especially as DG Trade emphasises the importance of regional integration"*[9].

[8] https://ec.europa.eu/commission/presscorner/detail/en/qanda_20_2303https://ec.europa.eu/commission/presscorner/detail/en/qanda_20_2303

[9] House of Commons International Development Committee, *Fair trade? The European Union's trade agreements with African, Caribbean and Pacific countries*, 6 April 2005, https://publications.parliament.uk/pa/cm200405/cmselect/cmintdev/68/68.pdf.