

Working Paper PEIF-9

*Back to the Nest? Europe's Relations with the African, Caribbean and Pacific Group of Countries*

by

John Ravenhill

December 1, 2002

**Abstract**

Europe's association with African, Caribbean and Pacific (ACP) countries was the first of its interregional relationships. In the nearly half century since the signature of the Treaty of Rome, it developed into Europe's most institutionalized and multidimensional interregional relationship. It embraces not only trade and investment issues but also a development "partnership" that includes what has traditionally been the EU's largest single aid program, a joint parliamentary assembly, meetings of organizations representing civil society, and a dialogue on human rights. This chapter examines the factors that have shaped this relationship over the last four decades. The principal focus is on the trade regime, not just for consistency with the other contributions to this volume but also because it is in its trade dimension that the relationship has changed most dramatically over time.

*John Ravenhill, Chair of Politics, University of Edinburgh*

# Back to the Nest? Europe's Relations with the African, Caribbean and Pacific Group of Countries

John Ravenhill\*

## Introduction

Europe's association with African, Caribbean and Pacific (ACP) countries was the first of its interregional relationships. In the nearly half century since the signature of the Treaty of Rome, it developed into Europe's most institutionalized and multidimensional interregional relationship. It embraces not only trade and investment issues but also a development "partnership" that includes what has traditionally been the EU's largest single aid program, a joint parliamentary assembly, meetings of organizations representing civil society, and a dialogue on human rights. This chapter examines the factors that have shaped this relationship over the last four decades. The principal focus is on the trade regime, not just for consistency with the other contributions to this volume but also because it is in its trade dimension that the relationship has changed most dramatically over time.<sup>1</sup>

Historically, the relationship has not been one of pure interregionalism, as defined by Aggarwal and Fogarty in their introductory chapter to this volume, because the ACP Group is not a region as defined either by geography or by law (in the sense of a WTO-sanctioned regional preferential trade agreement under Article XXIV of the GATT). The ACP Group was a creation of the European Union at the time of the signature of the first Lomé Convention in 1975 and has had little presence outside of the interregional partnership, one of the problems for the unwieldy grouping.<sup>2</sup> That the relationship is one of *hybrid interregionalism* caused increasing problems for the EU with the strengthening of the rules of the global trade regime when the WTO replaced the GATT. EU efforts to bring its trade relations with members of the ACP Group back into the nest, that is, to make them compatible with WTO rules, by signing regional preferential trade arrangements with ACP sub-groupings under Lomé's successor, the Cotonou Agreement, may well ultimately

---

\* Chair of Politics, University of Edinburgh

<sup>1</sup> Some would argue that the trade component of the relationship is now relatively unimportant in that the economic decline of many of the ACP countries prevents them from taking advantage of their trade preferences; meanwhile the overall reduction in EU tariffs/extension of EU preferential trade agreements has eroded the preferential margins enjoyed by the ACP. Trade relations nonetheless remain a more significant development instrument than aid. For a discussion of some of the non-trade components of Europe's relations with the ACP see Arts (2000) and Schrijver (2001). For stylistic convenience, I use European Union (EU) throughout this paper even though relations with the ACP originated when the EU (and some members of the ACP) were known by other names.

<sup>2</sup> In other forums, save when forced to defend their privileged treatment by the EU, the ACP typically fragmented along various lines of cleavage including principal commodities exported, and linguistic and geographical divisions.

undermine the ACP Group.<sup>3</sup> This chapter concludes by demonstrating how this strategy is complicated by the lack of counterpart coherence on the ACP side.

## **The Interregional Regime**

### *Background*

The relationship between Europe and the ACP Group had its origins in the Treaty of Rome, which included provisions (Arts. 131 and 136) for the then colonies of the EU's founding members to be included within the customs union. When most of these colonies gained their independence at the beginning of the 1960s, the EU negotiated arrangements to provide eighteen of them with continued preferential access to the common market, arrangements codified in the first Yaoundé Convention of 1963, the provisions of which were renewed in the second Yaoundé Convention of 1969. Under these agreements, the former colonies in principle were obliged to provide preferential access (so-called 'reverse preferences') for European exports to their markets. The EU claimed that these reciprocal preferences made the Conventions compatible with GATT's Article XXIV as 'an interim arrangement leading to the establishment of a FTA', although it never sought GATT approval of them (asserting that its relations with its former colonies were covered by the 'grandfather' provisions of the GATT).

Britain's accession to the EU in 1973 posed particular problems in how to accommodate the special arrangements that Britain had previously provided for trade with its former colonies and dominions. These had included not only preferential tariffs but also purchase arrangements for certain commodities, the most significant being the Commonwealth Sugar Agreement. Meanwhile, the EU had come under increasing criticism from trading partners and from the development lobby for its insistence on reverse preferences in its relations with a group of the world's poorest economies. The US government viewed the reverse preferences of the Yaoundé Conventions as one of the last vestiges of the preferential colonial trading arrangements that it held responsible for much of the havoc in international trade in the inter-war years. One reason why the US had supported proposals for the introduction of Generalized System of Preferences (GSP) schemes within GATT was to move away from regimes such as Yaoundé that accorded preferential access to industrialized countries' markets other than on developmental criteria.

An extension of the EU's special relations with former colonies was part of the understanding on the terms of UK accession. Moreover, bureaucratic interests in the Commission—the Development Directorate, which managed the Community's relations with its former colonies—favored an extension of its informal empire. And the external context provided additional reasons for the EU to construct a new interregional arrangement: the negotiations for the first Lomé Convention took place in a period of unprecedented upheaval in the post-war economy—the immediate aftermath of the first round of OPEC-induced oil

---

<sup>3</sup> On the concept of nesting of international agreements within a hierarchy, see Aggarwal (1985).

price rises of 1973. Lomé, or at least the rhetoric if not much of the substance of the first Convention, was one of the few concrete outcomes of the demands from less developed economies for a New International Economic Order. European fears about the future security of supply of raw materials added to pressures from the US, less developed countries and the development lobby, to lead the EU to propose an agreement that was more comprehensive and more generous in its provisions than its predecessors. The EU abandoned the insistence on reverse preferences: Lomé instead provided for non-reciprocal concessions on trade, the ACP countries being obliged merely to give imports from the EU treatment at least as favorable to that provided to the most-favoured industrialized country source.

What would be the geographical scope of the new relationship? This was a potentially problematic issue because Britain's former colonies included economies such as India and Pakistan, which, while low-income, were of a size and diversity that posed a much greater competitive threat to European economies than that from the Yaoundé associates. In the end, a happy coincidence of geography and development provided a solution to the dilemma: the EU would make the Lomé relationship available to Europe's former colonies in Africa, the Caribbean and the Pacific, and to countries of 'comparable economic structure'. This formula ruled out the more diversified and larger economies of South Asia, and enabled Europe to claim that it was creating a new relationship that not only extended beyond colonial legacies (because it included countries such as Ethiopia that had not been European colonies) but one that was also contributing to promoting integration in the three component geographical regions of the ACP Group.<sup>4</sup>

#### *The Nature of the Interregional Regime*

The Lomé Conventions were by far the most comprehensive of the EU's interregional agreements and avowedly developmental in orientation. Over various iterations (Lomé was renegotiated on five occasions), the political dimensions of the Convention were made more explicit. Whereas the first two Conventions began with articles pertaining to trade cooperation, Lomé III (1984) and Lomé IV (1990) began with a "body of doctrine" comprising 20 articles specifying the objectives, principles and guidelines of the Convention. Lomé III made reference to human dignity and to economic, social and cultural rights. Lomé IV added civil and political rights and was the first development agreement to incorporate a human rights clause (Article 5) as a "fundamental" part of cooperation. The revised version of Lomé IV (1995), known as Lomé IV (bis), used the language of the Maastricht principles

---

<sup>4</sup> The fit between geography and level of development was far from perfect, however. Least developed Bangladesh, for instance, was excluded, while the Bahamas benefited from the Lomé provisions. The problems with this correlation became acute when the post-apartheid South Africa sought membership in the ACP Group (a natural candidate for membership if geographical criteria applied but South Africa is regarded as a 'developed' country in the WTO). The EU eventually agreed that South Africa should join the ACP Group but not benefit from the trade provisions of the Lomé Convention. Instead, a bilateral, reciprocal preferential trade agreement, claimed to be compatible with GATT's Article XXIV, was signed that will lead to the creation of a free trade area between the parties.

in referring to democratic principles, the consolidation of the rule of law, and to good governance.<sup>5</sup> An updated clause confirmed human rights as an 'essential element' of cooperation; any violation could lead to partial or total suspension of development aid by the European Union after prior consultation of other ACP nations and the abusing party.

The Conventions provided for duty-free access for 95% of the tariff lines of members of the ACP grouping (originally numbering 46, a figure that grew to 71 at the time of the negotiation of the Cotonou Agreement, and subsequently to 78—see Table 1). The Conventions established more than just a trade relationship. They also included protocols for preferential access to the European market for four ACP exports, programs to provide compensatory finance to ACP states for revenue downturns in exports of specified primary products (STABEX) and to help maintain production of certain minerals (SYSMIN), and a substantial enhancement of the aid program provided through the European Development Fund (EDF) that had been established in the Yaoundé period.

The comprehensiveness of the trade concessions placed the ACP at the apex of the EU's pyramid of privilege: they were Europe's 'preferred partners' (Davenport, Hewitt and Koning, 1996).<sup>6</sup> The duty free access accorded to ACP tariff lines compared favourably with the average of 80% of tariff lines in other regional trade agreements to which the EU was a party, and to the 54% included within the EU's GSP (World Trade Organization, 2000). The value of the trade arrangements to the ACP lay not just in the duty free access but also in the exemption of their exports from the MultiFibre Arrangement, in (limited) concessions on some agricultural products that competed with European production under the Common Agricultural Policy, and in the special protocols for bananas, beef/veal, rum and sugar. These protocols provided for duty free access for fixed quantities of exports of commodities that would otherwise be uncompetitive or face prohibitive tariff or quota restrictions, and, in the case of beef/veal and sugar, guaranteed ACP producers prices prevailing in the (heavily protected/subsidized) European market. The European beef price, for instance, is usually more than fifty percent above world market prices while ACP sugar exporters have consistently received an EU price that is two to three times that prevailing in world markets. Although these protocols cover products that constitute only nine percent of total ACP exports, their value to beneficiary ACP states is much higher than this figure suggests.

---

<sup>5</sup> For further discussion see Frisch (1997).

<sup>6</sup> Bhagwati's (1992) characterization of regional trade agreements as forming a 'spaghetti bowl' of preferences is particularly apt for the EU. The WTO notes that the exports of only **eight** of its members face MFN tariffs in entering the EU. All other WTO members benefit from some form of preferential treatment (World Trade Organization, 2000). Besides Lomé and its successor, the Cotonou Agreement, the EU operates a GSP scheme that benefits most less developed economies, and by August 2001 had notified the WTO of its participation in four customs unions arrangements (all in Europe), fourteen free trade agreements with European countries and nine with economies outside Europe (with Mediterranean countries, Mexico and South Africa). In addition, it had yet to notify the WTO of agreements with the Former Yugoslav Republic of Macedonia and with San Marino, and was negotiating agreements with MERCOSUR, Chile, Croatia, and the Gulf Cooperation Council (Commission of the European Union, 2001c).

Purchases of imports from the ACP under the sugar protocol alone, for instance, were estimated to cost the EU one quarter of all of the money spent on the relationship annually.<sup>7</sup>

The special provisions for certain ACP exports meant that the EU's treatment of commercial relations with its partners was not entirely uniform. Least developed, landlocked, and island countries also benefited from privileged treatment under the STABEX and SYSMIN arrangements. With the exception of the ACP exports covered by specific protocols, however, the EU gave uniform commercial treatment to all ACP countries.

The Lomé Conventions were also far more institutionalized than their predecessors. It created five joint EU-ACP institutions. The ACP-EU Council of Ministers is the ultimate decision-making authority on issues relating to the interregional partnership. On a day-to-day basis, the relationship is managed by the ACP-EU Committee of Ambassadors, to which the Council of Ministers delegates specific powers. The ACP-EU Joint Assembly consists of a representative from each ACP State and an equal number of Members from the European Parliament. It meets twice a year but has consultative status only. Finally, the Convention created two functional joint institutions: the Centre for the Development of Industry, financed by the EDF, aims to encourage and support the creation, expansion and restructuring of industrial companies in ACP countries; and the Technical Centre for Agricultural and Rural Cooperation develops and provides services that improve the access of ACP countries to information on agriculture and rural development.

In principle, the negotiation of the successors to the original Convention was to take place on an interregional basis—between the Commission and the ACP Secretariat,<sup>8</sup> and at the ACP-EU Committee of Ambassadors and ACP-EU Council of Ministers. In practice, the desire of individual ACP governments to push for special concessions for products or projects of particular interest to them, and the willingness of European countries to champion the cause of traditional clients, ensured that significant *negotiations* also took place on a bilateral basis. Moreover, a favourite negotiating ploy of the Europeans was to go over the head of the Brussels-based representatives of ACP countries to appeal directly to national capitals for them to rein in their ambassadors and to ensure that they be more accommodating of European perspectives. With the exception of the separate bilateral trade agreement that was negotiated with South Africa when it acceded to the Convention, the treaties, however, were always interregional in nature.

The EU over the years was keen to highlight the benefits that the Lomé trade provisions gave to the ACP compared with those available under alternative arrangements. In

---

<sup>7</sup> Sugar constitutes five percent of total ACP exports, bananas two percent, and beef and rum one percent each. For further discussion see Ravenhill (1985 Chapter 5), Dunlop (1999), and ECDPM (1999).

<sup>8</sup> A small ACP Secretariat with approximately two dozen professional staff was established in Brussels during Lomé I. The EU pays a substantial portion of the budget of the Secretariat (and has recently proposed to finance an ACP office in Geneva to facilitate the Group's relations with the WTO). The Secretariat has always been hard pressed in negotiations to keep up with the mountain of paper that the much larger European Commission was able to generate.

particular, it emphasized the contractual nature of the provisions (unlike the GSP, which is a unilateral grant by the EU), the security provided by the length of the agreements (the fourth Lomé Convention ran for 10 years from 1990; its three predecessors were each of five years duration),<sup>9</sup> and their comprehensiveness. The reality of the matter was more complex. Although the trade concessions were negotiated with the ACP and embodied in the Conventions, that is, in documents with legal standing, no specific provisions existed for dispute settlement, which was a matter for discussion between the ACP Secretariat and the Commission or, if they failed to resolve the issue, by the ambassadors or ministers. Nor was there provision for compensation in the event that the EU took measures that were contrary to the Conventions' letter or spirit. For instance, the EU was able unilaterally to resort to safeguard action if it deemed ACP exports to threaten European interests. The mere possibility of such action could serve as a significant deterrent (early in the Lomé relationship the EU threatened Mauritius, a relatively small source of its textile imports, with safeguard action unless it accepted voluntary export restraints).<sup>10</sup>

Although the relationship was said to be contractual,<sup>11</sup> the EU insisted that its obligations towards the ACP did not tie its hands in its external commercial policies in any way. Accordingly, throughout the life of the Conventions, the EU unilaterally took various actions that reduced the value of the trade preferences enjoyed by the ACP. Such actions included the extension of its GSP scheme, a lowering of its MFN tariffs, the signature of preferential agreements with other countries, and what amounted to a unilateral abrogation of the rum protocol through its agreement on distilled spirits tariffs with the US at the WTO ministerial meeting in Singapore in 1997. The ACP, meanwhile, were placed in the somewhat anomalous position of trying to encourage the EU to maintain trade restrictions on third parties in an attempt to preserve the major sources of advantage that the Convention conferred on them.

The inability of the ACP to constrain EU actions was symptomatic of the asymmetries in the relationship. Although the Convention embodied the NIEO rhetoric of a partnership among equals, the principle of a contractual relationship based on equality was undermined not only by the disparities in economic power of the parties but also by the lack of reciprocity in the relationship. A fundamental problem for the ACP was that they came to the

---

<sup>9</sup> Although the trade provision of the fourth Convention ran for 10 years, the amount of financial assistance to be provided was renegotiated at the halfway point of the Convention—the second period of the fourth Convention is referred to as Lomé IV (bis).

<sup>10</sup> Besides the lack of certainty of the trade provisions, their benefits were also limited by the restrictive (and exceedingly complicated) rules of origin that govern preferential access to the EU market (to which 360 pages of the Cotonou Agreement are dedicated), and by the limited access afforded agricultural products covered by the CAP.

<sup>11</sup> The Commission's "Green Paper on Relations between the European Union and the ACP countries on the eve of the 21<sup>st</sup> Century: Challenges and Options for a New Partnership" in referring to the "contractuality" of the trade relationship notes that "preferences are jointly agreed, they cannot be modified unilaterally by the EU". Quote appears in Chapter II, Part 6. Available at <http://www.oneworld.org/euforic/greenpap/chap2.htm>.

relationship only as *demandeurs*. The only concession the ACP made in the relationship was to agree to participate as beneficiaries of EU largesse. Once the fears of raw materials scarcity evaporated, the ACP had few weapons in their bargaining armoury—not least because of their unwillingness to grant any form of reciprocity. In negotiations, their weakness was their principal strength—they were able to appeal to EU development constituencies, argue that their economic frailty ensured that any concessions by the EU would not do any significant damage to EU domestic interests, and generally attempt to embarrass the EU into maintaining or extending the relationship (Ravenhill, 1993). I characterized the relationship as one of ‘collective clientelism’ in which the ACP attempted through the Conventions to gain protection from its European patron not only against the vicissitudes of world markets but also against unfriendly actions by the Europeans themselves (Ravenhill, 1985). Such a strategy was viable only as long as the EU was willing to use trade preferences as a development instrument. Over the course of the four Lomé Conventions, European interests in the relationship changed substantially.

For most of the twenty-five years of the Lomé Conventions, the ACP were fighting a rearguard action to maintain the ‘acquis’ of the Conventions against European attempts to claw back the “NIEO” provisions that it had conceded in the frenzied atmosphere of 1973-74. In particular, the EU attempted to undo the automaticity of provisions such as financial transfers under the STABEX scheme. Because the EU was the provider of benefits, it could take unilateral action to punish what it perceived as defections from the regime’s provisions (primarily political conditionality). Until the inclusion of the more specific clause on human rights in Lomé IV (bis), however, such interpretation occurred outside of the formal framework of the interregional treaty. In terms of its effect on constraining the behaviors of its participants, the formal rules of the interregional regime therefore must be judged as weak.

A former Director-General for Development of the European Commission, Dieter Frisch (1997), provides an insight into the political relationship from an official European perspective. For the period of the first two Conventions, he asserts, ‘we use to set great store by Lomé’s “political neutrality”’ by accepting ACP states ‘into the Lomé “club” without passing judgment on their ideological, political or economic choices’. ACP countries were given a great deal of discretion in how they chose to use money provided by the EU. From Lomé III (1985-90) onwards, however, following various embarrassments when, for instance, ACP military governments used STABEX funds to purchase military vehicles, the EU insisted on ‘policy dialogue’ in which instruments of cooperation would be implemented ‘on the basis of duly negotiated and formulated mutual undertakings’. With each Convention, political conditionality became more explicit.

## **The Evolution of the Interregional Regime**

### *The Commercial Relationship*

Perhaps the most striking feature of the 25 years of the Lomé relationship was the secular decline in this period of most ACP economies—many in absolute terms but all, and the ACP collectively, in terms of relative importance as economic partners for the EU. The share of the ACP in EU imports fell from 6.7% at the beginning of the Lomé partnership to 2.8% in 1999. Despite their position at the apex of the EU pyramid of privileges, the ACP fared substantially worse in the EU market than did other developing countries: the ACP share of EU imports from developing countries fell from 14.8% to 4.1% over the same period (Commission of the European Union, 2001a). ACP exports decreased not only as a share of European imports—they actually fell in absolute terms. In the 1990s, they were consistently below the level of the mid-1980s.<sup>12</sup> EU imports from all members of the ACP grouping amounted to less than those it purchased from Russia. Falling trade shares were symptomatic of the economic problems of many ACP countries: by 1993, overseas development assistance accounted for 11.5% of the total GDP of sub-Saharan Africa, 80% of that of Mozambique and 40% of that of Tanzania.

Data on the declining ACP share of the European market are widely quoted by the EU as evidence of the ineffectiveness of the Lomé provisions. Perhaps of even greater significance for European attitudes towards the relationship are data that seldom appear in the EU's discussion of Lomé: the share of the ACP in European *exports*. Over the period 1995-98, the ACP Group accounted for an average of 3.0% of EU exports.<sup>13</sup> This is barely half the figure for ASEAN, the Association of Southeast Asian Nations (5.9%), and substantially less than that for the countries that are candidates for EU membership (an average of 14.1% over the four year period) (calculated from data in (Commission of the European Union, 2001d)). In most years, the EU runs a trade deficit with the ACP. As the EU Commission's Trade Directorate commented, 'trade between the ACP and the EU has remained important for the ACP, but marginal for the EU' (Commission of the European Union, 2001a).<sup>14</sup> Not surprisingly, the relationship with the ACP has not come high on the list of the EU's commercial priorities.

---

<sup>12</sup> Aggregate data on ACP exports have always to be treated with some care given the disproportionate influence of oil (which alone constitutes close to one quarter of EU imports from the ACP) and thus of fluctuating oil prices. Diamonds and gold constitute a further 25 percent of the aggregate figure. Nonetheless, these figures reflect the overall decline in significance of ACP member states as economic partners of the EU.

<sup>13</sup> This figure jumped to 4.1% in 1998 with the accession of South Africa to the Convention. South Africa alone accounts for one third of all EU exports to the ACP grouping (Allen, 2002, p.4).

<sup>14</sup> Thirty-eight percent of all ACP exports go to the EU market; for African ACP exports the figure is 48%. On the evolution of trade between the ACP and the EU see Moss and Ravenhill (1982; 1987); McQueen and Stevens (1989); and Davenport, Hewitt and Koning (1996).

### *The Strategic Context*

Meanwhile, other developments had also undermined the significance of the relationship for the EU. The ending of the Cold War had not only largely removed the few remaining geopolitical considerations in Europe's relations with members of the ACP Group, especially its African component, but had produced a pressing problem for the EU in how to accommodate the countries of Central and Eastern Europe. Similarly, the Mediterranean, with its greater commercial opportunities and, no less important, various threats to the EU as an actual or potential source of illegal migration, drugs, and terrorism, had assumed far greater significance than the more remotely located ACP economies.

### *Developments within the EU*

EU expansion had brought into the Union new members that lacked historical ties with the ACP Group. The admission of Spain and to a lesser extent Portugal had added countries whose historical ties were primarily with Latin America rather than with the African, Caribbean and Pacific areas favored by Lomé. The most recent accessions in 1994 had added Nordic countries that, while often sympathetic to the EU playing a significant role in development, saw little logic in this role being shaped primarily by colonial legacies rather than developmental needs. Moreover, the new members had few economic interests in the ACP: in 2000, the combined share of Austria, Denmark, Finland and Sweden in the EU's exports to the ACP was less than that of Belgium.<sup>15</sup>

The Amsterdam Treaty (Article 177) had identified the priority of the Community's development cooperation policy as fostering 'the sustainable economic and social development of the developing countries, and more particularly the most disadvantaged among them' and 'the smooth and gradual integration of the developing countries into the world economy'. Both phrases carried danger signals for the ACP: although many of their countries were among the least developed, the grouping remained defined primarily by geography and history rather than by level of development. And reference to integration into the world economy potentially provided ammunition for those critics of Lomé who asserted that the maintenance of preferential access for the ACP had merely encouraged their governments to put off necessary structural adjustment and thereby contributed to their poor economic record. Moreover, the Amsterdam Treaty committed EU development cooperation policies 'to the general objective of developing and consolidating democracy and the rule of law, and to that of respecting human rights and fundamental freedoms'—a signal that the EU would not allow the rhetoric of 'equal partnership' of the Lomé partnership to stand in the way of the imposition of political conditionality in the future.

### *Developments within the World Trading System*

The precipitant for the demise of the Lomé arrangements was a challenge to their legality within the WTO in the context of complaints from Central American countries and the United

---

<sup>15</sup> Allen (2002)

States about the Convention's banana protocol. The Lomé Conventions had not been challenged in the GATT before the Uruguay Round. The ACP and EU had not sought a GATT waiver under Article XXV of their obligations to provide MFN treatment under GATT Article I. The belief appeared to be that the preferential treatment the Convention gave to ACP exports was legitimized by Part IV of the GATT and by the first paragraph of the 'Enabling Clause' (officially the 'Decision on Differential and More Favourable Treatment, Reciprocity and Fuller Participation of Developing Countries') of 1979. The decisions of the first two GATT Banana Panels belied these assumptions.

The Lomé Convention's banana protocol was designed to maintain banana production in some ACP countries (and some of the EU's remaining overseas territories) heavily dependent on export earnings from this commodity, and to ensure the commercial survival of EU importers of ACP/overseas territory fruit. Neither category of interested party would be able to withstand open competition in the Community's banana market, the largest in the world. The Lomé banana protocol had maintained import quotas in the traditional markets of suppliers from the ACP (Britain, France and Italy) and from overseas territories (France, Portugal and Spain). EU markets (most notably Germany and the Netherlands) that had traditionally sourced their bananas from the 'dollar zone' were largely unaffected by the policy (imported bananas were subject to a uniform 20% tariff; these importing countries had lower banana prices and higher per capita consumption than those giving preference to ACP/overseas territory suppliers). The introduction of the single internal market in 1992 made the continued operation of these arrangements impossible.

In response to pressure from EU commercial interests and the ACP (supported by some EU governments), Brussels in July 1993 adopted a set of policies that seemed tailored to maximize intervention and distortion in the marketplace. Quotas on banana imports were extended EU-wide and supported by over-quota tariffs. Imports from Latin America were subject to tariffs to raise revenue. The policy also created a system of import licensing that identified three categories of operators; those marketing companies that had benefited under the previous national policies were favoured (they were effectively handed one third of the dollar banana trade and could on-sell their import licences to other traders). Companies that traditionally had marketed dollar zone fruit found their markets reduced both by the quotas and by the requirement that one third of dollar zone fruit should be handled by other importers. The net effect was to boost EU banana prices, reduce consumption, and create a system whereby quota rents were divided among EU marketing companies. The overall benefits to ACP producers were very limited.<sup>16</sup>

---

<sup>16</sup> The problems with the EU policies are documented most fully in a series of papers by Borrell (1996; 1999; 1994). He estimates that the regime cost consumers \$5.30 for each \$1.00 of assistance provided to preferred banana suppliers. Approximately 60% of this sum was siphoned off in excessive marketing margins by European companies with another 5% collected as tariff revenue by the EU. Moreover, for every dollar of aid reaching preferred suppliers, other developing country suppliers were estimated to lose \$0.32 because of reduced export opportunities (Borrell, 1996 p. 6). Grynberg (1997) is also useful on the background to the

The full story of the tortuous process whereby the EU was eventually forced to bring its banana regime into compliance with the WTO is outside the scope of this chapter (at various stages the policies were found to contravene Article I, Article III.4 on National Treatment, Article XIII on the nondiscriminatory administration of quantitative restrictions, Article XXIV on regional trade arrangements, and Article V of the GATS, as well as contravening elements of EU competition law). The significance of the dispute for the Lomé relationship was that the judgement of the GATT dispute panels extended far beyond the specific provisions of the banana protocol. In particular, the second GATT Banana Panel in 1994 declared that the Convention itself contravened GATT's most favoured nation requirement because it treated countries at the same level of development in a discriminatory manner. Furthermore, the Panel found that the Convention did not meet the requirements (reciprocal free trade for 'substantially all trade') for an exemption from the most favoured nation requirement by virtue of compliance with the provisions for regional preferential trade agreements laid down in Article XXIV. The Panel also found that because Part IV of the GATT made no reference to Article XXIV, a relationship with developing countries did not obviate the conditions that regional arrangements must meet as specified in that Article if they were to receive a derogation from the most favoured nation requirement.

Although the EU in principle could have ignored the Panel's findings under the old GATT dispute settlement rules, the finding sent shockwaves through participants in the Lomé relationship. The EU rushed to secure a GATT waiver for the Convention (while maintaining that it was in fact compatible with Article XXIV provisions) before the entry into effect of the new WTO rules. In one of the last acts of GATT under the 1947 rules, contracting parties in December 1994 approved a five year waiver for the Convention for the duration of Lomé IV (bis). To gain unanimous agreement, the EU had to accept the proviso that, the waiver notwithstanding, GATT contracting parties could still have recourse to the nullification and impairment provisions of Article XXIII of the GATT if they wished to challenge the Convention. These provisions essentially opened the way for a challenge to be mounted against the operationalization of the waiver if it could be demonstrated that it was being implemented in a way that was incompatible with GATT principles—and were used to good effect by Central American countries and the US in lodging further complaints against the banana regime.

The need to secure a waiver from the WTO for the Lomé arrangements was seized upon by those elements in the EU that wished to see a new basis established for relations with less developed economies. Their argument was that the need for a future Convention to obtain a waiver under Article IX.3 of the Marrakech Agreement, which would require approval by at least 75 percent of WTO members, and would be of a fixed duration and subject to annual review, undermined the security that the ACP had previously enjoyed

---

banana disputes.

through the contractual nature of the Lomé provisions. Such security could only be restored if the ACP countries entered into WTO-compatible regional trade agreements with the EU.

The logic of this argument is open to question. The objections of other countries to the banana regime, for instance, were not because it provided tariff preferences for ACP countries (who provided only 16% of European consumption) but because of the way in which the regime's quotas limited the access of other suppliers, and because its import licensing system discriminated in favour of European commercial interests. Indeed, the US government repeatedly asserted that it was not opposed in principle to tariff preferences for ACP banana suppliers. Moreover, trade agreements between other industrialized countries and groupings of less developed economies (LDEs) discriminate among LDEs in the same way as Lomé did: the principal examples are the US—Caribbean Basin Economic Recovery Act (CBERA), the Canadian Tariff Treatment for Commonwealth Caribbean Countries (CARIBCAN), and the US—Andean Trade Preference Act (all of which have received WTO waivers).<sup>17</sup> It is uncertain for how long the WTO might have been prepared to grant a waiver of the type that the Lomé arrangements would have required but precedents existed for such a waiver to be made. Less important than the accuracy of the logic of the argument that Lomé was incompatible with the WTO, however, is that it was widely accepted throughout the EU and used as the basis for its negotiating mandate on the successor arrangements to the Lomé Convention.

#### *From Lomé to Cotonou*

The EU's lack of interest in expending further political capital to secure a continuing WTO waiver for its trade relations with the ACP was symptomatic of the low priority that the relationship held for Brussels by the mid-1990s.

The decline in the significance of the ACP as an economic partner for the EU documented in the previous section meant that there were few European commercial interests speaking out in support of maintenance of the relationship. Those that did were decidedly 'old economy' and in many instances non-competitive enterprises dependent on the protection provided by the Convention for their survival.<sup>18</sup> Moreover, the maintenance of the traditional trading relationships that Lomé epitomized had threatened more significant European interests. For leading European companies and indeed most officials in European

---

<sup>17</sup> And the US Sugar Act applies discriminatory quotas to less developed economy suppliers. Even GSP schemes discriminate among developing countries. Sometimes this discrimination is according to political criteria—the US, for instance, has for a long time excluded countries governed by communist parties and OPEC members from its scheme. Most schemes also discriminate among countries that identify themselves as less developed in the WTO according to level of development: the Newly Industrialized Countries, for instance, have been 'graduated' from most GSP schemes. Brazil has challenged the EU's GSP scheme in the WTO because of the inferior treatment its exports receive compared to those from Andean and Central American countries.

<sup>18</sup> Some were concerned that access to some ACP markets, particularly in the Caribbean, was becoming more difficult for EU firms, given the signature of trade agreements between these states and other industrialized countries—hence a demand that any new arrangements should be based on "mutual obligations".

governments and the EU Commission itself, the idea that the WTO should come close to being wrecked and Europe engage in a trade war with the US over a dispute over banana imports was more than slightly ludicrous.

Among the former colonial powers, Britain had long since lost interest in Africa. Even France, which had maintained far closer political and economic links with its former African colonies, no longer appeared willing to invest significant diplomatic capital in defence of the Lomé relationship.<sup>19</sup> The ACP could traditionally count on support from the Development Directorate of the EU Commission; they had provided the main focus for its activities since the Commission's foundation. Here again, however, interests were changing. Commission officials, like their counterparts in the member states, had tired of the wrangling every five years over renewal of the Convention. To enable the ACP to save face in successive negotiations and to maintain its image as sympathetic to the needs of the least developed, the EU inevitably had to make some incremental improvements in the Convention's provisions (and in the trade sphere the only areas in which improvement could be made were in products, typically in agriculture, that had great domestic political sensitivity). It was to avoid such sensitivities and the investment of significant bureaucratic resources in lengthy negotiations that produced essentially trivial outcomes that the EU had decided that the trade provisions for the fourth Convention should extend for ten years.

Over the years, the share of EU aid going to non-ACP countries had risen (Table 2); the Development Directorate foresaw a broader role for itself with responsibilities extending beyond the ACP states.<sup>20</sup> Even in the EU development lobby, which had grown up largely around the Lomé relationship, support for maintaining the ACP at the apex of Europe's pyramid of privilege was waning. Again, the emphasis was on redefining European aid priorities according to the level of development of potential beneficiaries rather than on historical ties.

To the extent that trade preferences for the ACP clashed with other EU commercial objectives, tensions existed between elements of the Development Directorate (the old DG VIII) and DG I, responsible for other external relations. Of particular note here for the redefinition of the interregional partnership was the re-organisation of the Commission that occurred in 1999, which removed trade with the ACP from the responsibilities of the Development Directorate and handed it to the Trade Directorate—a clear signal of the Commission's intentions that trade with the ACP would be subordinate to the overall principles of EU external trade relations.

Given this evolution of European interests, it is not surprising that the 'Green Paper' that the Commission issued on the future of the relationship favoured the negotiation of trade

---

<sup>19</sup> Posthumus (1998) provides further discussion of the views of individual EU governments.

<sup>20</sup> Moreover, while the volume of EU aid disbursed to the ACP in the 1990s stagnated after 1992, that disbursed to Eastern Europe rose rapidly. By the end of the 1990s, disbursements to Eastern Europe were running at levels of roughly two-thirds of that to the ACP.

arrangements that would be compatible with the WTO. Although the Commission identified a menu of future trade options that ran from the maintenance of the status quo through a reciprocal preferential agreement with the ACP as a single region, through the abandonment of the trade provisions of Lomé in favour of an expanded GSP, the Commission's preferred alternative was clearly the negotiation of what it termed regional economic partnership agreements (REPAs). These would be reciprocal regional preferential trade agreements 'plus', that is, their trade provisions would be supplemented by the supply of EU development assistance. The EU would seek an extension of the WTO waiver to allow existing trade relations to continue for a further five years to provide an opportunity for ACP countries to take the necessary measures to prepare for reciprocal preferential agreements. Least developed members of the ACP Group, however, would benefit from trade arrangements at least equal to the status quo, provisions that the Commission proposed to extend to all UN-designated least developed countries.

The principal arguments the EU advanced in support of the REPAs were:

- they were in accordance with the overall thrust of EU commercial policy under which the Community had signed an increasing number of regional trade agreements with preferred partners, and would follow the example of relations with Mediterranean partners where, after the Barcelona Euro-Mediterranean conference, one-way preferential agreements were transformed into reciprocal arrangements;
- they would be compatible with Article XXIV of the GATT, thereby providing the ACP countries with the security that had been removed from the Lomé relationship because of the successful challenge within the WTO to its trade provisions (and would provide more security than a waiver subject to annual review within the WTO);
- by 'locking in' trade policy reforms in the ACP through the requirement for reciprocity, such agreements would make the ACP more attractive hosts for foreign investors and thereby contribute to fulfilling the Maastricht objective of integrating developing countries more fully into the global economy;
- they would help promote regional integration among sub-groups of the ACP, a development the EU regarded as beneficial in its own right.

Moreover, because the special treatment given to least developed members of the ACP would be extended to all least developed countries, these provisions would be compatible with the Enabling Clause of Part IV.

Skeptical commentators saw the proposals as reflecting the new determination of the EU to pursue its commercial interests in all external relations—the Commission's mandate had called for a more balanced relationship in which the 'mutual interests' of partners would be taken into account. Since the EU was essentially offering no additional trade benefits to the ACP (the mandate made no promises on improved access for products subject to the CAP), merely additional hurdles through which the ACP would have to jump to maintain the

status quo in terms of free access to the EU market, the direct benefits of the new trade provisions would accrue overwhelmingly to EU exporters. With free access to their markets for European exports, ACP producers would not only have to compete with EU industries but also faced the prospect of CAP-subsidised EU agricultural products entering their markets on a preferred basis. In economies where import prices were already above world norms (Yeats, 1990), it was likely that the gains from the removal of tariffs would be captured by overseas producers rather than by local consumers. Moreover, independent studies commissioned by the EU for six potential sub-regional groups of ACP countries found that the free trade requirements of such transregional arrangements would lead to a substantial drop in revenue for several governments that depended heavily on income from tariffs, and that trade creation would be minimal and would often be more than offset by trade diversion (McQueen, 1999). Overall, however, the likely non-renewal of the Convention's four commodity protocols would cause greater income loss for ACP states than would the removal of any other trade preference.

Critics pointed out that a series of 'hub and spokes' agreements would be likely primarily to benefit the EU than ACP countries—especially if no arrangements were made between the various ACP sub-regions, and that negotiation of free trade agreements would offer a politically convenient opportunity to exclude 'sensitive' products (the EU mandate suggested that REPAs 'will cover substantially all trade between the parties excluding no sector but taking into account the sensitivity of certain products of both parties').<sup>21</sup> And to confine the most generous access to the EU market to least developed countries would ensure in effect that the provisions would not be utilized: the Lomé experience had reinforced that of the GSP where only the more developed economies were able to take substantial advantage of the preferential access provisions to diversify their exports.<sup>22</sup>

The EU's Green Paper, with its offer of nothing for something through the negotiation of REPAs, placed the ACP Group on the defensive, not least because the new approach posed a potential threat to the grouping's very existence. Its original negotiating mandate (ACP Group, 1998) showed some confusion on the trade issue, reflecting the inability of the Group to reach consensus on the issues involved. On the one hand, it called for improved non-reciprocal trade preferences from the EU—a status quo 'plus' (paragraph 39). On the other, it recognized that 'under the prevailing WTO rules, the current arrangements including non-reciprocity applied to ACP States only cannot continue indefinitely' (paragraph 35). The Group also called for 'a transition period which is more realistic and consequently longer' (paragraph 37) than that proposed by the EU, and for phased introduction of reciprocity.

---

<sup>21</sup> The trade agreement with South Africa excluded several significant agricultural exports that competed with European production (see below).

<sup>22</sup> Least developed economies account for under 0.5% of world exports.

Recognition by the ACP of the limited viability of the existing trade arrangements might be seen as indicating a degree of cognitive consensus on the issue. But few ACP governments perceived significant benefit in the EU proposals—it was more a matter of having to accept an unpalatable alternative forced on them by the power asymmetries in the relationship. The problem for the ACP was that they were attempting to maintain a clientelist relationship with an EU that was no longer willing to be a patron. The EU, however, did concede the ACP demand for greater flexibility in the implementation of the new arrangements:

- ACP governments were given an eight year preparatory period before entering a transitional phase towards a free trade agreement with the EU;<sup>23</sup>
- the EU would approach the WTO for a waiver to allow the maintenance of existing trade arrangements for this eight year period;
- negotiation of the new arrangements would begin in September 2002 and be concluded by the end of December 2007 at the latest;
- in 2004, the Community will assess the situation of the non least developed countries which, after consultations with the Community decide that they are not in a position to enter into economic partnership agreements {the word ‘regional’ disappeared during the negotiations} and ‘will examine all alternative possibilities, in order to provide these countries with a new framework for trade which is equivalent to their existing situation and in conformity with WTO rules’ (Cotonou Agreement Article 37.6).

### **From Cotonou to Confusion?**

The Cotonou Agreement can be regarded as a victory for multilateralism over particularism through a return to a WTO-compatible form of interregionalism. Yet the proposal to make the relationship Article XXIV compatible is beset by a number of problems that may inhibit the realization of the stated objectives, and which may render them contrary to WTO principles.

The first set of problems relates to counterpart coherence: the absence of viable regional groupings on the ACP side with which the EU can negotiate. The recent history of ACP countries, especially those in Africa, is littered with the debris of a large number of failed regional treaties. Few viable regional institutions exist; fewer still that have realized intra-regional free trade and that have the capacity to negotiate collectively with the EU. Low levels of intra-regional trade (Table 3) provide few incentives to negotiate more formal arrangements.

In its Green Paper, the Commission foresaw regional economic partnerships being negotiated with the Caribbean (CARICOM), the Pacific and four African groupings—EAC, SADC, UDEAC, and UEMOA—covering East, South, Central and West Africa

---

<sup>23</sup> The Doha WTO ministerial meeting in November 2001 approved a waiver of WTO requirements for ACP states until December 2007. Significantly, the waiver included a more restrictive annex pertaining to bananas, suggesting that it may have been possible for the EU to have gained a long-term exemption for a Lomé-type arrangement had the banana dispute been settled.

respectively.<sup>24</sup> Of these groupings, CARICOM is by far the furthest advanced towards freeing intra-regional trade, and has a competent regional secretariat. The problem for the Caribbean, however, is that it would risk the loss of its preferred access to the US and Canadian markets under the Caribbean Basin Economic Recovery Act (CBERA) and the Canadian Tariff Treatment for Commonwealth Caribbean Countries should it grant imports from the EU more favourable treatment than that given to those from its North American partners.

Elsewhere, the lack of viable regional institutions with which the EU might negotiate is more acute. The Pacific Islands have no regional trade arrangement amongst themselves; the only regional institution is the Pacific Islands Forum, which also includes Australia and New Zealand. Again, any move to accord imports from the EU more favourable treatment than those from the two industrialized Oceanic economies would risk the loss of preferred access that Pacific islands currently enjoy to their markets under the SPARTECA agreement.

In Africa, regional economic integration remains a distant aspiration. Moreover, the four groupings that the Commission identified are far from comprehensive: they currently exclude nineteen sub-Saharan countries.<sup>25</sup> An additional complication is one instance of overlapping membership: Tanzania is a member of both the Eastern African Cooperation and the SADC groupings. While European officials might credibly claim that the Cotonou Agreement provides a powerful incentive for African regions to get their act together, the possibility of their doing so in time to begin negotiations with the EU in accord with the Cotonou timetable appears remote.

A second, familiar, problem further complicates matters: the lack of coincidence of geography and level of development. This is problematic because the Cotonou Agreement provides for special treatment for the least developed countries. Article 37.9 of the Agreement specifies that ‘The Community will start by the year 2000, a process which by the end of multilateral trade negotiations and at the latest 2005 will allow duty free access for essentially all products from all LDC building on the level of the existing trade provisions of the Fourth ACP-EC Convention and which will simplify and review the rules of origin,

---

<sup>24</sup> The membership of these regional groupings as identified by the European Commission was: CARICOM (Caribbean Community and Common Market) 11 countries: Bahamas, Barbados, Belize, Dominica, Grenada, Guyana, Jamaica, Saint Lucia, Saint Christopher & Nevis, Saint Vincent & Grenadines, Trinidad & Tobago.

EAC (Eastern African Cooperation) 3 countries: Kenya, Uganda, Tanzania

PACIFIC (Pacific Countries) 8 countries: Fiji, Kiribati, Papua New Guinea, Solomon Islands, Tonga, Tuvalu, Vanuatu, Western Samoa.

SADC Southern African Development Community 12 countries: South Africa, Angola, Botswana, Lesotho, Malawi, Mauritius, Mozambique, Namibia, Swaziland, Tanzania, Zambia, Zimbabwe.

UDEAC Union Douanière et Economique de l’Afrique Centrale 6 countries: Cameroon, Central African Rep., Chad, Congo, Equatorial Guinea, Gabon.

UEMOA Union Economique et Monétaire Ouest Africaine 7 countries: Benin, Burkina Faso, Ivory Coast, Mali, Niger, Senegal, Togo.

<sup>25</sup> Burundi, Cape Verde, Comoros, Djibouti, Eritrea, Ethiopia, Gambia, Ghana, Guinea, Guinea Bissau, Liberia, Madagascar, Mauritania, Nigeria, Rwanda, and São Tomé and Príncipe.

including cumulation provisions, that apply to their exports'. The Community has pressed ahead with implementing these commitments through its 'Everything But Arms' initiative, launched in February 2001. Through this proposal, the EU provided immediate duty and quota free access for all exports from the world's 48 least developed countries save for armaments and certain agricultural products.<sup>26</sup>

The effect of this initiative has been to remove any incentive for the 40 ACP economies with least developed economy status to enter into regional trade agreements with the EU: the access to the EU market they enjoyed under Lomé will be maintained (and even improved upon for agricultural products included in the CAP) without their having to offer reciprocity to the EU. Least developed ACP economies are represented in all three geographical areas of the grouping: Haiti in the Caribbean, Kiribati, Samoa, Solomon Islands, Tuvalu, and Vanuatu, in the Pacific, and a host of countries in Africa (see Table 1). Of the regional arrangements identified by the EU as possible negotiating partners, only one—CARICOM—does not contain at least one least developed country. The EU's initiative for the least developed, whatever its merits in its own right, may therefore have the unintended consequence of making its negotiations with regional groupings among the ACP countries more difficult and, indeed, even give rise to a situation where regional groupings among the ACP are shaped more by the imperatives of negotiating with an extra-regional partner than by the logic of local geography or intra-regional considerations. In any event, the differences in economic structures among countries of the various regional groupings in Africa makes it highly unlikely that they will be able to reach agreement on a common approach for negotiations with the EU.<sup>27</sup>

For non-least developed ACP countries, the alternatives to a regional partnership agreement are bleak. In its Green Paper, the Commission did make reference to the possibility of negotiating bilateral free trade arrangements, as it did with South Africa, with 'willing single ACP countries which are outside any regional integration process and are large and capable enough (examples: Nigeria, Zaire), and provided that political conditions are right'. The implication is that this option will not be available to smaller ACP economies. Already faced with the possibility of simultaneously negotiating five arrangements with ACP regions, the EU would not welcome the bureaucratic burden of entering talks with a string of individual ACP countries. Although the EU in Article 37.6 of the Cotonou Agreement, quoted above, does commit itself to examining 'all alternative possibilities' that are compatible with the WTO for ACP countries unable to enter regional agreements, the only option that officially has been regarded as viable has been to provide them with the same

---

<sup>26</sup> Thereby realizing a longstanding proposal—see Ravenhill (1986). The restriction on imports of sugar, rice and bananas, introduced after extensive lobbying by farm groups in Europe and by Caribbean countries, has caused some to term the initiative 'Everything but Farms'. For a study of the possible economic effects of the proposal see Stevens and Kennan (2001).

<sup>27</sup> For further comment see McQueen (1998).

treatment under the GSP afforded all other non-least developed LDEs. To do so would significantly reduce the advantages that these economies currently enjoy in the EU market.<sup>28</sup>

Whether the economic partnership arrangements the EU proposes will in fact be compatible with the WTO provisions under Article XXIV remains an open question. Two issues are particularly problematic in this context. One is the time period for entry into force of these arrangements. The second is the comprehensiveness—or lack thereof—of the product coverage. The EU has suggested that it may argue in the WTO for a longer transition period (fifteen to twenty years) than provided for in the Marrakech memorandum of understanding on Article XXIV (which specifies a ten year period). Moreover, the EU has asserted that the partnership arrangements while covering ‘substantially all trade’ will impose ‘asymmetrical’ obligations and take into account the ‘sensitivity’ of certain products. Here the free trade agreement with South Africa (described by the EU as ‘differentiated in coverage and asymmetrical in timing’) may point to what the EU has in mind. The agreement provides for the full liberalization of 95% of EU imports from South Africa over a transitional period of 10 years, and of 86% of South African imports from the EU over a period of 12 years. On agriculture, however, the asymmetry is reversed: the EU will provide duty free entry for only 61% of imports of South African agricultural products whereas South Africa will provide free access for 81% of European exports of agricultural products. Among the South African agricultural exports excluded from the agreement are beef, sugar, most dairy products, sweet corn, maize, rice and fresh fruit, while imports of South African wine are only partially liberalized (Commission of the European Union, 1999). Similarly, unlike NAFTA, the EU-Mexico free trade agreement does not provide for free trade in agriculture but excludes close to 40% of agricultural exports (again sugar, dairy, beef and gains) (Schott and Oegg, 2001, p. 748).

How much ‘variable geometry’ the WTO will tolerate in regional free trade agreements remains to be seen. At the very least, the variations from strict Article XXIV compliance that the EU is proposing for the partnership agreements will render them vulnerable to challenge within the WTO. It may yet have to seek waivers from other WTO members for any regional economic partnerships negotiated under Cotonou.

Given the lack of negotiating capacity of individual ACP states and of most of the regional groupings the EU has identified as potential partners, the emergence of a patchwork quilt of arrangements to replace the Lomé Convention is quite likely (Table 4). Whether they will return the interregional relationship with the ACP to the WTO nest through the negotiation of Article XXIV-compatible arrangements or fall out of it altogether will only become clear towards the end of the decade.<sup>29</sup>

---

<sup>28</sup> For a study of the possible effects on ACP economies of dropping back to GSP treatment, see Stevens (1997).

<sup>29</sup> Meanwhile, Cuba became the 78<sup>th</sup> member of ACP in December 2000 but refused to join the Cotonou Agreement. Cuba’s accession could be interpreted alternatively as a positive sign that the ACP Group was

## Explaining the Evolution of the Interregional Regime

Lomé differed from many of the other relationships discussed in this book in that it was not written on a tabula rasa. The legacy of the colonial relationship and the Yaoundé Conventions created vested interests within the Commission and member states as well as in the client countries. Moreover, it provided a set of arrangements, an “acquis”, that was a reference point that constrained how the relationship could evolve until the EU made a decisive break with the past in proposing to move, via the negotiation of regional economic partnership agreements, to interregional arrangements designed to comply with WTO requirements for regional trade agreements.

How relevant are the various approaches identified in the introductory chapter by Aggarwal and Fogarty to an explanation of the evolution of the interregional relationship with the ACP? As would be expected with an interregional partnership that has lasted for close to fifty years and which is of such a broad scope, the significance of the different explanatory factors changed over time.

The argument that the relationship was shaped in part by *balance of power* considerations has some relevance for the creation of the relationship and its extension with the negotiation of the Lomé Convention. At this time, the maintenance of a preferred relationship with former colonies appeared to offer an advantage to Europe both in providing an assured market for old technology products, offsetting US competitiveness in other parts of the global economy, and in affording preferred access to raw materials at a time when the industrialized economies were increasingly anxious about future security of supply. These concerns figured prominently in the decision to extend the scope of the commercial relationship with the ACP to include two schemes—STABEX and SYSMIN—originally designed to foster continuity of supply of raw materials to the European market. With the relative decline of ACP economies and the disappearance of concerns about raw materials supplies (no effort being made to address the ineffectiveness and underfunding of the STABEX and SYSMIN arrangements), such balance of power considerations largely disappeared from consideration—with one exception. The EU determination to transform the relationship into one in which the more developed of the ACP economies were required to offer free access to their markets for EU exports (a strengthening of the regime by imposing additional rules on ACP behavior) was driven in part by a desire to balance the treatment that the US and Canada were negotiating for their exports to Caribbean countries.

*Societal Interests* affected the development of the interregional relationship with the ACP in two principal dimensions. EU economic interests were dominant in determining the scope of the commercial relationship. As always, European agricultural producers and their champions in national governments and the Commission played a significant role in limiting

---

beginning to take on a presence outside of the relationship with the EU or as a likely cause of further incoherence in the Group.

the range of products that were given preferential treatment under the trade regime and their terms of access—causing interminable haggling over, for instance, the volume of ACP produce that would be admitted to the EU market in the off-season and the duration of such concessions, each time the Convention was renegotiated. European agricultural interests also shaped the scope of the commercial relationship in a manner beneficial to the ACP, however. If it had not been for the determination of the UK sugar refiner, Tate and Lyle, to maintain its cane sugar processing capacity, it would have been far more difficult for the ACP to prolong the purchasing arrangements that Britain had previously offered under the Commonwealth Sugar Agreement. Similarly, the regime for banana imports owed as much to pressure from European commercial interests as it did to the lobbying of ACP banana exporters.

With the evolution of European commercial interests and the decline of many ACP economies, the desire of European companies to maintain the relationship declined, particularly when it was seen as actually damaging or having the potential to do harm to relations with more significant economic partners. The Convention's banana regime found few domestic supporters once it posed a threat to transatlantic trade relations.

As European commercial interests in the relationship diminished, a new set of European societal actors grew in prominence—NGOs that focused on development issues. At first these interests worked overwhelmingly in favor of maintaining or improving the treatment provided to the ACP under the partnership. The development lobby was effective in national parliaments; it also worked closely with members of the European Parliament to maintain pressure on the Commission and the Council of Ministers. Increasingly, however, NGOs found little merit in a development policy that privileged countries according to colonial inheritance rather than developmental status. They supported the efforts of the Commission and the member states to impose political conditionality and to claw back the 'automatic entitlements' that ACP countries had won in the negotiation of the first Convention.

In a relationship as broad in its scope as that defined by the Lomé Conventions, and one that was administered by the Commission on a day-to-day basis, it was inevitable that *bureaucratic interests* played a significant role in defining the interregional partnership and how it evolved. A whole directorate of the Commission came into being because of the responsibility of administering the Lomé relationship. The Directorate General for Development had bureaucratic interests in seeing the geographical scope of the interregional relationship expanded with the accession of Britain to the EU, and in broadening the issue scope of the partnership with the addition of new instruments for collaboration in Lomé I. The Development Directorate in the early days of Lomé was a promoter of the interests of the ACP, often fighting bitter bureaucratic battles with the Directorate for External Relations and the Directorate for Agriculture to attempt to secure an improvement in the terms of the commercial relationship.

With the growth in significance of Europe's commercial relations with non-traditional partners, the balance of interests in the Commission changed considerably. The end of the Cold War and the consequent possibilities for eastwards expansion of the EU produced a new aid program that grew rapidly to rival that to the ACP countries. The successful conclusion of the Uruguay Round negotiations and the advent of the WTO provided new challenges for the coordination of the Union's external economic policies. Within the Commission, the "global" element, reflected in the Trade Directorate, was triumphant over the regionalist elements of the Development Directorate, which lost its responsibility for trade negotiations with the ACP partners. But even within the Development Directorate itself, twenty-five years of dealing with ACP governments on a daily basis within the Lomé relationship had produced considerable disillusionment. Enthusiasm for the heady rhetoric of the first Convention of a partnership among equals, and for a relationship in which the obligations were entirely one-sided had long since disappeared. Moreover, the interests of the Development Directorate itself had changed as an increasing share of its activities was directed towards non-ACP states. The "Everything But Arms" initiative, with its privileged treatment accorded to all least developed countries, made EU trade preferences WTO-consistent and brought them in line with the new orthodoxy in development thinking; it also broadened the mission of the Development Directorate.

*Ideas and Identity* also figured at various times during the evolution of the interregional partnership with the ACP. Identity issues were most important at the beginning of the partnership when the maintenance of relationships established during the colonial period and the desirability of promoting *la francophonie* and the British Commonwealth continued to enjoy significant support within the former metropolises. Besides generally underwriting the desire to negotiate a partnership with the ACP, such issues of identity were significant in shaping the commercial regime through the championing by European states of the particular interests of some of their former colonies, e.g., the UK support for special provisions for ACP sugar and rum producers, and for imports of beef from Botswana. With economic decline and political decay in many ACP countries, with Europe redirecting its commercial and political interests eastwards and westwards rather than towards the South, and with the end of the Cold War removing what little geopolitical significance ACP states previously had for Europe, issues of identity largely disappeared from the relationship.

Ideas played a prominent role in shaping the commercial relationship over the course of the interregional partnership. The influence of ideas derived from the NIEO debate was evident not only in the rhetoric of the first Lomé Convention but also in some of its provisions including the asymmetrical obligations under the trade regime and the automatic entitlement of ACP economies to transfers under the STABEX system. Europe consistently promoted the idea that regionalism would be good for the ACP throughout the life of the interregional partnership—indeed, it often seemed that the EDF was more enthusiastic in

funding regional schemes than were the ACP participants. And the decision to move to Article XXIV compatible regional trade partnerships in the Cotonou Agreement marked a new strategy on the EU's part for promoting regionalism among the ACP. The influence of new ideas on the purpose of development and how this might best be pursued through aid programs was prominent in changing the content of the Conventions, particularly in the introduction and extension of political conditionality.

Distinguishing ideas and interests is never easy, however, and this was as true of the interregional partnership with the ACP as of other areas of international relations. Particular bureaucratic actors in some instances adopted ideas because they forwarded their own interests. Similarly, new ideas about the purposes of development cooperation, enshrined in the Maastricht Treaty and in Article 177 of the Amsterdam Treaty, were seized upon by the states that joined the EU in the 1990s to justify their desire to see the Union extend to all least developed countries the privileged relationship previously enjoyed by the ACP. The interregional partnership provides little support for the argument that ideas can redefine interests.

### **Conclusion**

The Lomé relationship was a colonial inheritance that became increasingly embarrassing for the EU as its economic interests changed and the global trade regime evolved. The decision to break the Lomé mould reflected the dominance of “global” elements within the member states and the Commission, a combination of societal interests, national governments and bureaucratic elements. Over the years, even those member states with the strongest historical ties with the ACP countries had lost interest in the economic relationship, given the economic decline of African and Pacific countries. The accession of new member states with few historical links (with the exception of aid relationships for the Nordic countries) to the ACP strengthened the coalition among members who wished to see development policy determined by the characteristics of the recipient economies rather than by historical ties.

The Lomé relationship had always placed the ACP Group in an awkward position in that its interests lay in defending trade preferences and other economic benefits not offered to other less developed countries. These countries seldom found the Group's arguments for special treatment credible. Increasingly the ACP Group lacked European allies in the quest to defend its privileged position. Even the strong development lobby in Europe, the sophisticated network of NGOs that had grown up around the Lomé relationship, and their supporters in the European Parliament, found little merit in a development policy that privileged countries according to colonial inheritance rather than developmental status.

Whether the non-reciprocal character of the Lomé relationship would have been maintained had it not been for developments within the global trade regime, given the evolution of EU interests, is debatable. The transition from GATT to the WTO with its new dispute settlement mechanisms afforded an opportunity for those within the EU and outside

desiring to do so to take the initiative to break the Lomé mould. It offered non-privileged LDCs an opportunity to attack one of the most market-distorting of the Lomé provisions, the banana regime. And in doing so, they raised the stakes in the struggle to defend the Lomé relationship. The banana dispute became a significant threat to the carefully crafted Uruguay Round bargain and to Europe's broader interests in the global trade regime.

In attempting to return the Lomé relationship to the WTO nest by turning it into a several different forms of interregional arrangements, the EU faces a new set of problems. In part these derive from the incentive structure it has itself put into place: the "Everything But Arms" initiative removes for fully half of the ACP states any imperative that Cotonou would otherwise have created to form viable regional grouping to negotiate with the EU. The lack of counterpart coherence of the ACP will present an ongoing challenge in the transition to new forms of interregionalism.

Table 1: ACP States at the time of the Cotonou Agreement (71)

<i>Angola</i> *	Gabon *	Saint Kitts and Nevis *
Antigua and Barbuda *	<i>Gambia</i> *	St. Lucia *
Bahamas	Ghana *	Saint Vincent and the Grenadines *
Barbados *	Grenada *	<i>Samoa</i>
Belize *	<i>Guinea</i> *	<i>Sao Tome &amp; Principe</i>
<i>Benin</i> *	<i>Guinea Bissau</i>	Senegal *
Botswana *	Guyana *	Seychelles
<i>Burkina Faso</i> *	<i>Haiti</i> *	<i>Sierra Leone</i> *
<i>Burundi</i> *	Jamaica *	<i>Solomon Islands</i> *
Cameroon *	Kenya *	<i>Somalia</i>
<i>Cape Verde</i>	<i>Kiribati</i>	South Africa * §
<i>Central African Republic</i> *	<i>Lesotho</i> *	<i>Sudan</i>
<i>Chad</i> *	<i>Liberia</i>	Suriname *
<i>Comoros</i>	<i>Madagascar</i> *	Swaziland *
Congo (Brazzaville) *	<i>Malawi</i> *	<i>Tanzania</i> *
<i>Congo (Democratic Republic of)</i> *	<i>Mali</i> *	<i>Togo</i> *
<i>Côte d'Ivoire</i> *	<i>Mauritania</i> *	Tonga
<i>Djibouti</i> *	Mauritius *	Trinidad and Tobago *
Dominica *	<i>Mozambique</i> *	<i>Tuvalu</i>
Dominican Republic *	Namibia *	<i>Uganda</i> *
<i>Equatorial Guinea</i>	<i>Niger</i> *	<i>Vanuatu</i>
<i>Eritrea</i>	Nigeria *	<i>Zambia</i> *
<i>Ethiopia</i>	Papua New Guinea *	Zimbabwe *
Fiji	<i>Rwanda</i> *	

These countries have subsequently been joined by the Cook Islands, Cuba#, Marshall Islands, Federated States of Micronesia, Nauru, Niue, and Palau.

\* WTO members (total 55)

§ Lomé/Cotonou trade provisions not applicable.

# Not a signatory to the Cotonou Agreement

Least developed countries (UN list) in italics. (total 39)

Source: Adapted from Commission of the European Union (2001b)

**Table 2: Regional Distribution of Development Aid of the EU (%)**

	<b>1975/76</b>	<b>1980/81</b>	<b>1990/91</b>	<b>1993</b>
Sub-Saharan Africa	59.6	60.3	58.2	45.5
Near East, North Africa,	12.3	11.7	19.6	25.6
Latin America and Caribbean	5.4	6.3	10.1	10.9
South Asia	20.8	16.9	7.2	5.3
Other Least Developed	-	-	-	8.1
Other Asian Countries and Oceania	1.9	4.8	4.9	4.6

*Source: OECD/DAC.*

**Table 3. Trade relations for selected ACP regional groupings, 1995**

Trade (in %)	<b>UEMOA</b>	<b>SADC</b>	<b>EAC</b>	<b>UDEAC</b>	<b>CARICOM</b>
Intra-regional	8.7	11.5	7.9	3.2	3.3
With EU-15	49.6	36.4	36.3	52.0	24.4
With others	41.7	52.1	55.9	44.7	72.3

Note: Trade is the sum of exports and imports.

UEMOA=Union Economique et Monétaire Ouest Africaine

SADC=Southern African Development Community

EAC=East African Cooperation

UDEAC=Union Douanière et Economique de l'Afrique Centrale

CARICOM=Caribbean Community and Common Market

*Source: IMF, Direction of Trade Statistics, 1997. Reproduced from (Lecomte, 1998)*

**Table 4. EU's Trade Relations with African, Caribbean and Pacific Countries**

	<b>Form</b>	<b>GATT/WTO Compatible?</b>	<b>Uniform Treatment of Partners?</b>
Treaty of Rome	Colonies included in custom union provisions	Yes?	Yes
Yaoundé Conventions	Agreement intended to lead to FTAs with individual countries	Yes?	Yes
Lomé Conventions	Non-reciprocal preferential access to EU market	No: did not meet requirements for an FTA. Discriminated amongst countries at similar levels of development	Uniform access to EU market except for specific products—beef, bananas, sugar, rum—which subject to country quotas
Cotonou Agreement	3 possibilities:		No
	(1) FTAs with regional groupings or large individual Economies	Yes? Comprehensiveness of product coverage?	
	(2) Non-reciprocal preferential access to EU market for least developed	Yes under Part IV of GATT	
	(3) No special arrangements: Cuba plus non least developed countries that fail to negotiate FTA	Yes—GSP or MFN treatment	

## REFERENCES

- ACP Group (1998) "ACP Group Negotiating Mandate". Accessed 9 September 2001.  
[http://www.oneworld.org/acpsec/gb/lome/future/negman\\_e.htm](http://www.oneworld.org/acpsec/gb/lome/future/negman_e.htm).
- Aggarwal, Vinod K. (1985) Liberal Protectionism: The International Politics of Organized Textile Trade. Berkeley: University of California Press.
- Allen, Tim (2002) "EU Trade with ACP Countries". Statistics in Focus: External Trade. Theme 6 - 3/2002. Accessed 2 October 2002.  
[http://europa.eu.int/comm/eurostat/Public/datashop/print-product/EN?catalogue=Eurostat&product=KS-NO-02-003-\\_\\_-N-EN&mode=download](http://europa.eu.int/comm/eurostat/Public/datashop/print-product/EN?catalogue=Eurostat&product=KS-NO-02-003-__-N-EN&mode=download).
- Arts, Karin (2000) Integrating human rights into development cooperation : the case of the Lomé Convention. Hague, Netherlands ; Cambridge, Mass.: Kluwer Law International.
- Bhagwati, Jagdish (1992) "Regionalism versus Multilateralism." The World Economy 15,5 (September): 535-55.
- Borrell, Brent (1996) "Beyond EU Bananarama: The Story Gets Worse." Canberra: Centre for International Economics June.
- Borrell, Brent (1999) "Bananas: Straightening Out Bent Ideas on Trade as Aid." Canberra: Centre for International Economics September.
- Borrell, Brent W. (1994) "EU bananarama III". Washington, D.C.: World Bank, Policy research working papers 1386,
- Commission of the European Union (1999) "The Trade, Development and Cooperation Agreement". Accessed 6 September 2001.  
[http://europa.eu.int/comm/development/publicat/south\\_africa/p05-13\\_en.pdf](http://europa.eu.int/comm/development/publicat/south_africa/p05-13_en.pdf).
- Commission of the European Union (2001a) "Bilateral Trade Relations: ACP Countries (77)". Accessed 19 August 2001.  
<http://europa.eu.int/comm/trade/bilateral/acp/acp.htm>.
- Commission of the European Union (2001b) "Bilateral Trade Relations: ACP Countries: European Union Requests WTO Waiver for the New ACP-EC Partnership Agreement". Accessed 19 August 2001.  
[http://europa.eu.int/comm/trade/bilateral/acp/wto\\_waiver.htm](http://europa.eu.int/comm/trade/bilateral/acp/wto_waiver.htm).
- Commission of the European Union (2001c) "EC Regional Trade Agreements". Accessed 6 September 2001. <http://europa.eu.int/comm/trade/pdf/ecrtagr.pdf>.
- Commission of the European Union (2001d) "Trade in Goods: Statistics". Accessed 19 August 2001. <http://europa.eu.int/comm/trade/goods/stats.htm>.

- Davenport, Michael, Adrian Hewitt, and Antonique Koning (1996) Europe's preferred partners? The Lomé countries in world trade. London: Overseas Development Institute.
- Dunlop, Adam (1999) "What Future for Lomé's Commodity Protocols?". ECDPM Discussion Paper 5. Accessed 30 August 2001.  
[http://www.oneworld.org/ecdpm/pubs/dp5\\_gb.htm](http://www.oneworld.org/ecdpm/pubs/dp5_gb.htm).
- ECDPM (1999) "The Future of Lomé's Commodity Protocols: Fiddling While Rum Burns?". Lomé Negotiating Brief No. 6. Accessed 30 August 2001.
- Frisch, Dieter. "The Political Dimension of Lomé." The Courier ACP-EU November-December 1997: 78-82.
- Grynberg, Roman (1997) "Negotiating a Fait Accompli: The WTO Incompatibility of the Lomé Convention Trade Provisions and the ACP-EU Negotiations". ECDPM Working Paper Number 38. Accessed 21 August 2001.  
[http://www.oneworld.org/ecdpm/pubs/wp38\\_gb.htm](http://www.oneworld.org/ecdpm/pubs/wp38_gb.htm).
- Lecomte, Henri-Bernard Solignac (1998) "Options for Future ACP-EU Trade Relations". ECDPM Working Paper No. 60. Accessed 20 August 2001.  
[http://www.oneworld.org/ecdpm/pubs/wp60\\_gb.htm](http://www.oneworld.org/ecdpm/pubs/wp60_gb.htm).
- McQueen, Matthew (1998) "ACP-EU Trade Cooperation After 2000: An Assessment of Reciprocal Trade Preferences." The Journal of Modern African Studies 36,4: 669-692.
- McQueen, Matthew (1999) "The Impact Studies on the Effects of REPAs between the ACP and the EU". ECDPM Discussion Paper 3. Accessed 23 August 2001.
- McQueen, Matthew, and Christopher Stevens (1989) "Trade Preferences and Lomé IV: Non-traditional ACP Exports to the EC." Development Policy Review 7,3: 239-60.
- Moss, Joanna, and John Ravenhill (1982) "Trade Developments during the First Lomé Convention." World Development 10,10 (November): 841-56.
- Moss, Joanna, and John Ravenhill (1987) "The Evolution of ACP-EEC Trade: The First Ten Years." The EEC and the Third World: Survey 5 ed. Christopher Stevens. London: Hodder and Stoughton, 112-32.
- Posthumus, Bram (1998) "Beyond Lomé IV: Preliminary Views of European Governments on Future EU-ACP Relations". ECDPM Working Paper Number 53. Accessed 21 August 2001. [http://www.oneworld.org/ecdpm/pubs/wp53\\_gb.htm](http://www.oneworld.org/ecdpm/pubs/wp53_gb.htm).
- Ravenhill, John (1985) Collective Clientelism: The Lomé Conventions and North-South Relations. New York: Columbia University Press.
- Ravenhill, John (1986) "Aid Through Trade: Reforming the International Trade Regime in Favour of the Least Developed." Third World Quarterly 8,2 (April): 449-85.

- Ravenhill, John (1993) "When Weakness is Strength: The Lomé IV Negotiations." Europe and Africa: The New Phase ed. I. William Zartman. Boulder, Co.: Lynne Rienner, 41-62.
- Schott, Jeffrey J., and Barbara Oegg (2001) "Europe and the Americas: Toward a TAFTA South?" World Economy 24,6: 745-59.
- Schrijver, Nico (2001) "'Triple C' from the Perspective of International Law and Organisation: Comparing League of Nations, United Nations and European Union Approaches". The Hague: Ministry of Foreign Affairs Policy and Operations Evaluation Department, Working Document, December
- Stevens, Christopher (1997) "From Lomé to the GSP: Implications for the ACP of Losing Lomé Trade Preferences". IDS Research Paper for Oxfam GB. Accessed 21 August 2001. <http://www.oxfam.org.uk/policy/papers/lome-gsp/index.htm>.
- Stevens, Christopher, and Jane Kennan (2001) "The Impact of the EU's 'Everything but Arms' Proposal: A Report to Oxfam". Oxfam/Institute of Development Studies Research Report - 01/01. Accessed 16 September 2001. <http://www.oxfam.org.uk/policy/papers/eba.htm>.
- World Trade Organization (2000) "European Union: July 2000". Trade Policy Reviews: First Press Release, Secretariat and Government Summaries. Accessed 5 September 2001.
- Yeats, Alexander J. (1990) "Do African Countries Pay More for Imports? Yes." World Bank Economic Review 4,1 (January): 1-20.