

CAN THE WTO AND THE EPA MAKE TRADE FAIRER FOR AFRICA ? **by El Hadji A. Diouf***

**International Centre For Trade and Sustainable Development
Geneva**

African countries are currently involved in a series of trade negotiations aimed at liberalising exchange. They impact several different levels at the same time. Within the WTO, African countries need to continue the difficult implementation of existing agreements and take part in the new negotiations of the Doha Round, which involves a series of themes such as agriculture, market access, services, investment, competition and environment. At inter-regional level, the Cotonou Agreement, signed in June 2000 foresees replacing the preferential non-reciprocal access of the ACP countries by the Economic Partnership Agreements (EPAs) which are compatible with the WTO norms.

This new situation poses the problem of how to take developmental questions into account in a multilateral trade system. We become aware that the principles of Fair Trade provide somewhat insufficient tools for limiting the inequalities of the North-South relationship and establishing a fairer trading system. This implies that African participation in international exchange remains subjected to trading profits *strictu sensu* implicit in the concessions granted in the name of fairness and justice, and with a view to improving the lives of the growers of the South

The WTO seems to outline the beginnings of an answer with its special differential treatment ; but this is not yet operational. The European Union maintained a preferential regime for Africa for a quarter of a century, but has not been able to resist the trend towards the non-discriminatory approach adopted and reinforced within the legal framework of the new WTO. So what remains of the weighting of the international trade system that allows us to take into account the advantage of extended trade with African countries ? Are the WTO rules, as well as those that will govern the EPAs vehicles of the values of operational fairness that will benefit the African countries ?

This communication will attempt to reply to these questions. We will first look at the current state of affairs . The legal framework of the EPAs and the WTO are not designed to guarantee fairer for African countries. We will then see that there are the beginnings of more ethical considerations within the trade system, which, if encouraged could lead to a fairer trade that would be more profitable for African countries.

** The ideas developed in this document are the reflection of the author's own and do not commit the responsibility of the ICTSD*

I. The WTO and the APes: A framework that is too unfavourable for Fair Trade

Over and above the general reflection on the place of equity and even ethics in trade negotiations, this first part will attempt to show how the WTO and APE programme have not been designed to engender fair trade that is profitable for all involved. Among other points we shall consider :

1. The impossibility to have special differentiated treatment – flexibility – within the EPAs can be explained by three reasons : the WTO does not take the mixed regional trade agreements (between developed and developing countries) into account ; the forbidding of accumulating preferential treatment to the detriment of other developing countries ; and the corollary, the undermining of specific preferential treatment granted to African countries by Latin American countries.
2. The problem of technical, sanitary and phyto-sanitary norms faced by African countries in international exchange are frequent obstacles to exporting.
3. The problem of GMOs as it is posed today in Africa with the background of disagreement on the principle of precaution between the EU and the USA is subjected to the WTO's ruling.
4. The difficulty encountered by African countries to trade profitably in industrial products is posed by the erosion of preferential agreements, progressive rights and the inherent need to preserve local industry on the continent.
5. The fact that countries of the North retain more favourable conditions to the detriment of fair and just trade : for example of subsidies and measure of special safeguarding of agriculture.

II. WTO and APes : Towards a framework of expression of Fair Trade ?

Civil society's efforts of raised awareness of the governments of African countries of the above-mentioned state of affairs together with the shy changes observed in the international trade front can lead us to think that it might be possible to move towards fairer, more profitable rules for all the system's stakeholders. The points we shall consider in this section are :

1. The real possibility of introducing special differentiated treatment with in the EPA : there are three lines of reflection that can be explored, around the reform of the legal framework of the WTO which conditions relations between the EU/ Africa ; the innovative decision of the regulatory Organ governing difference of opiinion of the WTO on the the conditions of bestowal of preference ; and the need to interpret existing rules, in oder to take questions of development into account.
2. The reinforced flexibility for African countries of the WTO's agricultural rules. This leads us to reflect on new possibilities for African growers to have better protection through the introduction of the idea of special products, and special safeguard Mechanisms. These reflections should be extended to the regime of non trade considerations within the WTO in order to determine the extent to which food security and rural development can be guaranteed in a fairer trade system.
3. An important emphasis shall be placed on the inter-regional exchanges, to underline the need for fair trade rules for consumers and producers alike at all levels. We shall see that it is necessary to go beyond procting ourselves against the mercantile attitudes of the WTO, to lead an in-depth reflection at regional level, in order to guarantee fair trade policies. We shall now illustrate this with two examples : the regulation of the Bangui agreement on access to medicine and external trade barriers common to the ECOWAP and EUMEA, whose justice to African peoples remains questionable.
4. We shall also consider the case of cotton, in order to demonstrate the unfairness of international trade in its current configuration, and to emphasise the paradoxical risks linked to this offensive trade attitude in terms of fair and sustainable trade for African countries.