Background on the EU proposal to denounce the Sugar Protocol and market access for ACP sugar under EPAs – 14 September 2007

What is the Sugar Protocol?

The Sugar Protocol is a bilateral agreement between certain ACP States[1] and the EC. It has been agreed in 1975, alongside with the first Lomé Convention. In the framework of the Sugar Protocol, the EC has undertaken "for an indefinite period to purchase and import, at guaranteed prices, specific quantities of cane sugar, raw or white, which originate in the ACP States", members to the protocol. The ACP States, on their side, have undertaken to deliver the agreed quantities.

The sugar imported in the framework of the Sugar Protocol benefits from duty free access to the Community market. The guaranteed prices for raw and white sugar are negotiated annually.

New circumstances require the termination of the Sugar Protocol

The arrangements of the Sugar Protocol have served the interest of both the ACP and the EC, by guaranteeing an outlet on a profitable market to ACP exporters and ensuring a regular supply for EU cane sugar refiners. However, the arrangements of the Sugar Protocol can no longer be maintained:

On the reformed EU sugar market, the Community will no longer guarantee prices to European sugar producers as the former mechanism of intervention is being phased out. Hence, the Community cannot guarantee buying and prices for imports, either. However, it has means to aim for price stability on the EU sugar market.

Moreover, the Sugar Protocol is not compatible with the objective of providing Least Developed Countries (LDCs) and non-LDCs the same treatment in EPAs. LDC sugar will have duty and quota free access under the Everything But Arms initiative from 2009.

EPAs

EPA negotiations are the framework for improving the sugar import regime for ACP countries and adjusting it to today's realities. Article 36.4 of the Cotonou Agreement requires the EC and the ACP to review the Sugar Protocol in the context of EPA negotiations: " the parties reaffirm the importance of the commodity protocols … They agree on the need to review them in the context of the new trading arrangements, in particular as regards their compatibility with WTO rules with a view to safeguarding the benefits derived there from, bearing in mind the special legal status of the Sugar Protocol ."

The EC market access offer to ACP countries in EPAs envisages phasing in duty-free, quotafree treatment for sugar over a transition period. This transition period foresees two phases:

(i) Until 30 September 2009, the continuation of present conditions offered under the Sugar Protocol, together with increased market access through tariff rate quotas;

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[1] Barbados, Belize, Republic of Congo (Brazzaville), Côte d'Ivoire, Fiji, Guyana, Jamaica, Kenya, Madagascar, Malawi, Mauritius, Mozambique, St Christopher and Nevis, Swaziland, Suriname, Tanzania, Trinidad and Tobago, Uganda, Zambia and Zimbabwe.

(ii) From 1 October 2009 until 30 September 2015, free access for ACP sugar subject to an automatic volume safeguard clause (to be applied to non-LDC ACPs only), and a floor price coherent with EU prices until 2012. This floor price will be replaced by price transparency between 2012 and 2015.

From 1 October 2015, the regular EPA safeguard will apply, adjusted to take account of the sensitivity of sugar.

The passage from the first to the second phase requires the termination of the Sugar Protocol because unlimited quantities cannot co-exist with the price and volume guarantees of the Sugar Protocol. The aim of the EC is to agree with all ACP regions on the EC market access offer as a successor to the Protocol. This offer, including for sugar, is being negotiated with our ACP partners in the context of EPAs.

However, for legal security, the EC has to ensure that the Protocol is terminated. Article 10 of the Sugar Protocol sets out the possibility for each party to denounce the Protocol unilaterally with two years' notice. Since there is a two years' notice to terminate the Protocol, this measure has to be taken now in order to ensure that the second phase of the EC market access offer can commence on 1st October 2009.

The advantages of the EC offer on sugar in EPAs

In preparing the market access offer for ACP sugar in EPAs, the Commission services have taken the requirement of the Cotonou Agreement to look at safeguarding the benefits of the Protocol very seriously. Regarding the key benefit – preferential access to a protected market with attractive prices – the EC offer does not only safeguard, but improves this benefit substantially by lifting quantitative limits to imports from ACP countries in the longer run.

Regarding prices, the other key benefit, there is a genuine opportunity for ACP countries to offset the effects of EU price reduction (as a consequence of the EU sugar reform) through a well balanced combination of increased market access, market stability and a mechanism of price security.

This offer aims at balancing the interests of all ACP sugar exporters: Sugar Protocol signatories, LDCs who will have unlimited access from 2009 and non-LDCs currently without any preferential access. The parallel phasing in of duty and quota free access and phasing out of the price guarantee is designed to allow all stakeholders to gradually adapt to the new situation during the period until 2015 and beyond.