

# EUROPEAN PARLIAMENT

2004



2009

---

*Committee on Development*

1.7.2008

## **WORKING DOCUMENT**

on the development impact of Economic Partnership Agreements (EPAs)

Committee on Development

Rapporteur: Jürgen Schröder

## History

The Lomé Agreements of the European Community with the African, Caribbean and Pacific (ACP) countries contained specific provisions for trade preferences for the ACP countries. These trade preferences were more advantageous than the trade preferences that the EU accorded to other developing countries in the framework of the General System of Preferences (GSP). Therefore, the Lomé Preferences were subject to a waiver of the World Trade Organisation (WTO).

The Cotonou Partnership Agreement, which replaced Lomé IV in 2000, did contain similar trade provisions, but included a chapter on New trading arrangements (Articles 36 to 38) under Part Three, Title II (Economic and trade cooperation). According to Article 36, the ACP and EC agreed to conclude new WTO compatible trading arrangements, "*removing progressively barriers to trade between them and enhancing cooperation in all areas relevant to trade.*" Article 37 provides that the "*Economic Partnership Agreements shall be negotiated during the preparatory period which shall end by 31 December 2007 at the latest*". The Commission was not willing to request another waiver for the period after 2007.

In 2002, the first phase of negotiations started between the Commission and the ACP group on issues of general interest to the all ACP countries of the agreements followed by separate negotiations with six ACP regions that were established for the EPA negotiations (Caribbean, West Africa, Central Africa, Eastern and Southern Africa, SADC minus, Pacific).

By October 2007, it became apparent that only the Caribbean States were ready to initial a full EPA. The Commission confirmed its refusal to request a prolongation of the WTO waiver for those countries that did not agree on EPA or to seek for other transitional solutions, such as extending the GSP+ regime to all ACP countries, but pushed ACP countries to sign WTO compatible interim or "stepping stone" EPAs. On 23 October 2007, the Commission issued a communication proposing to conclude WTO-compatible interim agreements either on regional, sub-regional or national level.

In order to create such WTO-compatible Free Trade Agreements, they must liberalise "substantially all the trade" (on goods) between the countries involved and "in a reasonable length of time". These provisions of GATT Article XXIV are subject to interpretation, which explains the considerable differences between the initialled EPAs. However, it is the official interpretation of the "reasonable length of time" that the liberalisation process should exceed ten years only in exceptional cases<sup>1</sup>. Minimum requirement for covering "substantially all trade" would be not less than 80% of trade between partners. Obviously, these "understandings" are also subject to interpretation<sup>2</sup>.

---

<sup>1</sup> Understanding on the interpretation of Article XXIV of the General Agreement on Tariffs and Trade 1994 ([http://www.wto.org/english/docs\\_e/legal\\_e/10-24\\_e.htm](http://www.wto.org/english/docs_e/legal_e/10-24_e.htm)).

<sup>2</sup> Cf., for example, Meyn, Economic Partnership Agreements: A 'historic step' towards a 'partnership of equals'? (ODI Working Paper 288), March 2008, p.10, FN 14; Robert Scollay, "Substantially all trade": Which definitions are fulfilled in practice? An empirical investigation. A report for the Commonwealth Secretariat, University of Auckland, New Zealand, 2005, p. 2f; Axel Borrmann, Harald Großmann, Georg Koopmann, Die WTO-Kompatibilität der Wirtschaftspartnerschaftsabkommen zwischen der EU und den AKP-Staaten, Eschborn 2005, p. 36f.

By the end of 2007, the 15 CARIFORUM states initialled a "full" EPA, 18 African and two Pacific states initialled interim EPAs, and 42 ACP countries did not initial EPAs at all<sup>1</sup>. These countries are trading with the EU since 1 January 2008 on the basis of the GSP.

Out of the 30 African countries without EPA, 26 countries are LDCs, and benefit from the Everything But Arms (EBA) scheme, which gives almost duty free and quota free access (DFQF) to the EU market. Only Gabon, Nigeria and Congo are non-LDCs and their exports to the EU are now subject to the normal GSP tariffs or to MFN treatment (Most favoured nation clause), in case that items are not covered by the standard GSP. There will be no effect in terms of increase in tariffs compared to the Cotonou preferences for LDCs (except possible problems with the technical adaptation of customs requirements to EBA treatment). In the case of Nigeria, about 1.2% of exports will be subject to new tariffs, for Congo 3.5% and for Gabon 6%. Most of the tariff rates will be relatively low, but some may hurt exports in specific sectors, i.e. shrimps, prawns and crabs exports for all three countries, cane sugar and tobacco from Congo, plywood from Gabon, and cocoa and goat products as well as cotton and polyester from Nigeria. The fourth African non-LDC not having concluded an EPA is South Africa, which is already implementing WTO-compatible Trade, Development and Cooperation Agreement (TDCA).

In the Pacific region, only Papua New Guinea (PNG) and Fiji, both non-LDCs, initialled an interim EPA. For the remaining Pacific ACP states, the effects are limited due to limited trade relations to the EU, although 7 out of 13 EPA non-signatory states are non-LDCs.

The interim agreements will be signed and subsequently transmitted to the European Parliament for assent by August 2008.

## Overview<sup>2</sup>

All EPA with the African and Pacific region are interim or "stepping stone" agreements. They all contain liberalisation schedules for imports of goods from the EU in order to fulfil the requirement to be WTO compatible (to liberalise "substantially all trade"). Otherwise, they are different in scope, in content and in its possible effects on the development of the countries concerned.

---

<sup>1</sup> Out of the 79 Members of the ACPP Group of States, South Africa is participating in the negotiations, but its trade with the EU is ruled by the bilateral Trade, Development and Cooperation Agreement (TDCA); Cuba is not a signatory state to the Cotonou Agreement.

<sup>2</sup> Figures and estimations of this working document are largely based on the three publications:

- Stevens, Meyn, Kennan (ODI), Bilal, Braun-Munzinger, Jerosch, Makhan, Rampa (ECDPM), The new EPAs: comparative analysis of their content and the challenges for 2008. Final report, 31 March 2008
- Meyn, Economic Partnership Agreements: A 'historic step' towards a 'partnership of equals'? (ODI Working Paper 288), March 2008
- Partnership or Power Play?, Oxfam Briefing Paper, April 2008

Further information in particular in Trade Negotiations Insights, published monthly by ICTSD and ECDPM. See also the Website of 'tralac' (Trade Law Centre for Southern Africa).

Table 1: Full and Interim EPAs and their Membership

Region (number)	Full or interim Agreement (9 LDCs (in bold), 26 non-LDCs)
Caribbean (15)	Antigua & Barbuda, Bahamas, Barbados, Belize, Dominica, Dominican Republic, Grenada, Guyana, <b>Haiti</b> , Jamaica, St Kitts & Nevis, St Lucia, St Vincent & the Grenadines, Surinam, Trinidad & Tobago
Central Africa (1)	Cameroon
Eastern / Southern Africa (10)	<u>EAC (East African Community)</u> <b>Burundi</b> , Kenya, <b>Rwanda</b> , <b>Tanzania</b> , <b>Uganda</b> <u>ESA (Eastern &amp; Southern Africa)</u> <b>Comoros</b> , <b>Madagascar</b> , Mauritius, Seychelles, Zimbabwe
Pacific (2)	Papua New Guinea, Fiji
West Africa (2)	Côte d'Ivoire, Ghana
SADC (5)	Botswana, <b>Lesotho</b> , Namibia, <b>Mozambique</b> , Swaziland

Source: European Commission

All agreements contain relatively elaborated provisions concerning trade in goods (Most Favoured Nation clause (MFN), standstill provision, rules of origin, sanctions). Most interim EPAs contain provisions for development cooperation, but do not include binding commitments. No provision on development cooperation has been negotiated yet with the Pacific ACP states (PACPS) and EAC. Institutional provisions foresee joint institutions in different configurations, dispute avoidance and dispute settlement regulations. None of the interim EPAs provides for a parliamentary committee, as does the EPA with CARIFORUM. Trade related issues, such as services, investment, competition, environment, social aspects and good governance, are not included in the interim agreements (except some general declarations in some agreements). These aspects are either not yet negotiated or it is unclear if they would be included in a full EPA at all.

### Some key problems of the interim EPAs

- **Trade in goods**

The interim EPAs are intended to be WTO compatible to replace the previous Cotonou preference system, which is not WTO compatible. Therefore, the liberalisation schedules for goods are a core element of the interim EPAs.

In order to identify the broad effects of liberalisation, the start and the total duration of the liberalisation process, the impact of the first tranches of liberalisation and the exclusions must be taken into account.

Most EPAs reach the final stage of liberalisation by 2023 or earlier, while the EAC countries

have to reach liberalisation only by 2033. Liberalisation starts immediately for some countries (i.e. 55% of products in import value in 2008 for Botswana, Lesotho, Namibia and Swaziland (BLNS)), while others start only implementing liberalisation in 2015 (EAC countries) or 2013 for the four ESA countries Comoros, Madagascar, Seychelles and Zimbabwe, while Mauritius (also ESA country) will start liberalisation immediately (24.5% of products). Eight African countries (Botswana, *Burundi*, Cameroon, Ghana, *Mozambique*, *Rwanda*, *Tanzania*, Zimbabwe) exclude more than 20% of products from liberalisation. Being part of the SADC minus EPA, Mozambique excludes more than 35% from liberalisation, while the BLNS countries (also SADC minus EPA) exclude only 2.8% (in import value) completely from liberalisation.

Deriving from this variety of liberalisation schedules, the effects of the first tranches of liberalisation the ACP countries' economies will differ significantly. The revenue from customs duties of most African ACP countries is estimated to be reduced by more than 30%<sup>1</sup>. Although the effect for Botswana, Lesotho and Swaziland will be less than 10%, adjustment costs will be high for the BLNS countries.

These few examples show that no general correlation can be established between economic development of a country and the "burden" of liberalisation provided by the interim EPA. Results seem to depend rather on the negotiation skills of the negotiators of the country and the region. In comparison, the EPA with CARIFORUM was negotiated by the Caribbean Regional Negotiating Machinery (CRNM), an institution created for this very purpose. The result seems more favourable for the CARIFORUM countries (of which only one LDC) compared to many interim EPAs, i.e. the trade in goods is fully liberalised only after 25 years and the liberalisation starts only in 2011.

- **Regional integration**

It has been frequently used as argument in favour of the EPA that they would foster regional integration. The six ACP EPA negotiation groups were agreed on proposal of the ACP side. However, they do not coincide with already existing regional groupings. Either they incorporated non-members into existing regional groupings (Caribbean and Pacific) or they divided and merged regional organisations (EAC with COMESA countries; split of SADC; UEMOA in ECOWAS group (+Mauretania)).

Several African regional organisations have agreed to create customs unions. All these regions are still in the process of adjusting their national tariffs to a joint tariff scheme and none of the completed Customs Unions will coincide with an EPA grouping, with the only exception of EAC.

None of the African regions (or the PACPS) was in a position to negotiate collectively a free trade agreement with the EU. Only in 2007, the EAC decided to leave the ESA grouping and to negotiate a joint liberalisation scheme. Structurally most African ACP countries were - and

---

<sup>1</sup> Stevens, Meyn, Kennan (ODI), Bilal, Braun-Munzinger, Jerosch, Makhan, Rampa (ECDPM), The new EPAs: comparative analysis of their content and the challenges for 2008. Final report, 31 March 2008, p. 107ff; cf. Chris Milner, Oliver Morrissey, Evious Zgovu, Adjusting to Bilateral Trade Liberalisation under an EPA: Evidence for Mauritius, Centre for Economic Development and International Trade, University of Nottingham.

are - not ready to integrate a heavy liberalisation scheme with their main trading partner into their customs management.

Regional integration thus remains a serious challenge to the EPAs. Especially the Commission's switch from a regional to a double approach, to both regional and national negotiations, could hinder a further regional integration.

- **Trade flows**

For least developed countries, the incentives to conclude a Free Trade Agreement (FTA) with the EU are very limited given that they can benefit of the EU's Everything But Arms (EBA) scheme without opening their markets. According to the GSP Regulation, Duty Free Quota Free (DFQF) exports to the EU will be phased in until 2009. Non-LDC ACP countries that conclude no EPA would be forced to go back to the normal GSP scheme (or to apply for the GSP+ scheme by 31 October 2008 at latest). This would entail restrictions for some of their exports to the EU.

While the EU is the most important trading partner for most ACP countries, and virtually for all African ACP states, trade with the ACP countries is rather insignificant for the EU economy. Less than 3% of EU exports are destined to the ACP countries. However, European exporters are expected to gain from reciprocity. In certain products, the abolishment of tariffs may increase EU exports significantly, for instance an increase in meat exports can be expected (although the meat exports from certain ACP countries to the EU will also increase)<sup>1</sup>.

On the other hand, the non-LDCs among the ACP countries that initialled EPAs will benefit from DFQF access for all their exports to the EU, i.e. affecting a volume of € 1.4 billion of exports from non-LDC ACP exporters in 2008. Most import volumes are affected in the cases of Mauritius (an export volume of € 270 million), Cameroon (€ 175 million) and Côte d'Ivoire (€ 146 million). DFQF affects mainly the agricultural exports; highest gains are expected in the product groups of rice, grapes, beef and citrus fruits.

- **Loss of customs duties**

Custom duties for imported products are an important source of revenue for the ACP countries. Already during the first phase of liberalisation, African ACP countries are expected to lose \$ 359 million per year. Côte d'Ivoire is likely to lose \$ 83 million, equivalent to its current health budget for 500,000 people<sup>2</sup>. After liberalisation of all products, losses have been estimated at \$ 139 million for Côte d'Ivoire, \$ 143 million for the Seychelles and \$ 162 for Ghana, less for the remaining African ACP countries<sup>3</sup>.

- **Adjustment costs**

---

<sup>1</sup> Cf. Antoine Bouët, David Laborde, Simon Mevel, Searching for an Alternative to Economic Partnership Agreements, International Food Policy Research Institute, Research Brief No. 10, Washington D.C. 2007.

<sup>2</sup> Partnership or Power Play?, Oxfam Briefing Paper, April 2008, p. 19.

<sup>3</sup> Stevens, Meyn, Kennan (ODI), Bilal, Braun-Munzinger, Jerosch, Makhan, Rampa (ECDPM), The new EPAs: comparative analysis of their content and the challenges for 2008. Final report, 31 March 2008, p. 107.

The removal of the trade barriers for imports from the EU will certainly create opportunities for the ACP economies (i.e. decrease of prices for products needed for economy and consumers in the ACP, more open trade relations), but will also expose ACP economies to more regional and international competition. This will lead in some sectors to economic restructuring and loss of jobs. Replacement of customs duties by other government income will require considerable institution building efforts. Total adjustment costs have been estimated at € 8.9 billion for all ACP regions divided into fiscal adjustment (€ 2.9 billion), export diversification (€ 2.3 billion), employment adjustment (€ 1.4 billion) and skills and productivity enhancement (€ 2.2 billion)<sup>1</sup>.

- **Aid for trade**

All parties recognise that accompanying measures and development support is necessary to cover at least parts of the adjustment costs and make the EPA work in favour of development cooperation. ACP countries insisted that firm legal guarantees for development resources additional to the EDF would be part of the EPAs. Commission and Member States refused to negotiate development resources as part of EPAs. Finally, development chapters or annexes were integrated in the agreements, which do provide for the possibility of a kind of EPA funds, but accompanied only by vague pledges to increase development resources spent on trade-related sectors.

The EU side decided that needs arising from EPAs would only be dealt with in the context of the EU Aid for Trade Strategy established in 2007, when the EU pledged to deliver by 2010 annually € 2 billion (1 billion from the Member States, 1 billion from the Commission/EDF) as trade-related assistance (support for trade policy and regulations and trade development). The EU made the commitment that about 50% of this assistance will go to the ACP regions bringing an annual increase of € 300-400 million for trade-related assistance to the ACP. As there are no additional funds provided on EU level (EDF and EU budget), it can be deducted that the trade-related assistance is, in parts, putting a new label on existing actions, in other parts, taking away funds from existing programmes into new trade-related programmes<sup>2</sup>. For the one billion € provided by the Member States, it is not known, if sums will be additional or if Member States will undertake the same procedure of redirecting/re-labelling existing funds; and if the Member States will honour their pledges at all. Even under the - unlikely - estimation that the annual increase of € 400 million for trade-related measures in ACP countries (not only those that signed an EPA) would be "fresh money", it would not be sufficient to offset the loss in customs duties, before even starting any additional support for adjusting to the duty free import of EU goods.

---

<sup>1</sup> Cf. Chris Milner, An assessment of the overall implementation and adjustment costs for the ACP countries of Economic Partnership Agreements with the EU, in: R. Grynberg, A. Clarke (ed.), The European Development Fund and Economic Partnership Agreements, London 2006; cf. Chris Milner et al., Some Simple Analytics of the Trade and Welfare Effects of the Economic Partnership Agreements, Journal of African Economics, 14(3), p. 327-358.

<sup>2</sup> However, it should be mentioned that the financial volume of the 10th EDF had been increased to € 22.7 billion for the 6-years period 2008-2013 compared to € 13.5 billion for the 8-years period 2000-2007 (to which, on the other hand, € 9.9 billion of backlog of the previous EDFs have to be added as well as loss through inflation has to be taken into account).

## **Challenges for the future**

Signature of the EPA with CARIFORUM is planned for July, of the interim agreements for August 2008. The European Commission has strictly refused the idea to renegotiate the interim agreements as was suggest frequently by NGO and academics criticising the outcome of the negotiations at the end of 2007.

However, the EU needs to be flexible when going from interim to full EPAs, as costs of market opening for the ACP countries are high. The European Commission plans to finalise full EPAs all ACP regions by end-2008 or mid-2009. Although negotiations are continuing with all regions, it is unclear if this timing can be honoured. The year 2008 will be crucial for the negotiation of final EPA with - probably - many African and Pacific ACP countries.

The Commission must be flexible to renegotiate the liberalisation schedules including the goods excluded from liberalisation. Technical weaknesses and mistakes have been slipped into the schedules due to the high pressure exerted by the Commission to finalise agreements by end-2007. Different schedules of countries in the same regions need to be made more compatible than they are now. In West Africa, only Ghana and Côte d'Ivoire have initialled interim EPAs and these agreements have to be revised in order to reach a joint EPA for the region.

- **Trade in Services**

Many ACP countries have agreed to negotiate on the integration of services in the full EPAs. The example of the CARIFORUM EPA is not very positive. The Caribbean EPA has opened up to 75% of services sectors for European service providers even for services such as telecoms, banking, retail and courier services. EU companies have to be treated in general equal to domestic service providers. Restrictions or adjustments for needs of development are only possible in very limited scope. The EU has opened its service sector for nationals of the CARIFORUM countries, but conditions are limiting strongly the provision of services. Africa and Pacific ACP states need to be very careful when including the service sector in the EPAs as their gains may be small.

- **Foreign Direct Investment**

In order for ACP countries to attract Foreign Direct Investment, potential investors need to be offered the security of transparent and stable rules. In this respect, the CARIFORUM EPA includes a chapter on investment. Countries are opening their markets for investments in different areas, including mining, distribution of electricity and gas, agriculture, forestry and manufacturing. While regional and EU investors are obliged to respect environmental and labour standards, the Caribbean countries have in general given up their rights to introduce investment safeguard measures to limit or influence regional and EU investors in case that their actions may harm domestic markets or living conditions.

- **Public Procurement**

Transparent rules on public procurement can help improve the effectiveness of public spending, by increasing competitiveness and reducing spending. It can also be an important

tool in combating corruption. However, The CARIFORUM EPA contains a clause to grant 'national treatment' to EU suppliers at a later date. This provision may in the future undermine any support for domestic suppliers and stop development of industries in sectors benefiting from public procurement.

The development element of the EPAs needs to be reinforced and binding commitments for Aid for Trade included in the full agreements.

The year 2008 will be crucial for the design of future Aid for Trade (Aft) measures. Even if the EU's Aid for Trade will only in small parts provide additional financing, the funds could be used in a concise way to limit negative effects of the EPAs and to use the EPAs to push the economic and administrative development of the ACP countries forward. While most National Indicative Programmes for the 10<sup>th</sup> EDF are already negotiated, containing mostly no specific Aft programmes, the Regional Indicative Programmes are not yet finalised. Commission and ACP countries should ensure that they contain important Aft components, particular in view of offsetting revenue losses, administrative capacity building in favour of good governance and support measure to improve competitiveness of key economic sectors, depending on each country's specific situation and trading possibilities.

### **Concluding remarks**

The Economic Partnership Agreements (EPAs) have been designed to encourage development and better governance through trade and regional integration in the ACP countries. But during negotiations many African but also European stakeholders got the impression that a number of ACP countries could stand to lose rather than win with EPAs.

The European Commission repeatedly underlined that the EPAs and its deadlines would be an incentive for the African countries to undertake reforms towards good governance, in particular in public financial management. However, the effect could also be negative - that the administrations of the African EPA partners are simply overcharged and will not be able to cope with additional needs - unless more far-reaching capacity-building support commitments are made from the EU side.

Nevertheless one should keep in mind that EPAs have a certain potential to improve and strengthen good governance in the ACP countries, especially in African countries. A good governance effect could be reached on the national as well as the regional level: The loss of taxes and duties which will be generated by trade liberalisation should initiate countries to strengthen their administration in order to get remaining tax revenues more efficient. A stronger regional integration would foster mutual dialogue and more transparency when it comes to more cooperation. Several national particularities, as the functioning of the fiscal system will have to be shared among regional partners. More transparency would also strengthen national parliaments which could easier control government actions.

EPAs have the potential to strengthen good governance and make state administration more effective and ACP countries should use this opportunity for reforms.