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**CONCLUSIONS OF THE MEETING OF
ACP MINISTERS RESPONSIBLE FOR THE EPA NEGOTIATIONS AND TRADE**

ACP HOUSE, BRUSSELS

8-9 NOVEMBER 2007

1. The ACP Ministers responsible for the negotiations of the Economic Partnership Agreements (EPA) and Trade met at ACP House, Brussels, on 8 and 9 November 2007.
2. The meeting, which was convened pursuant to Decision No. 4/LXXXV/07 of the 85th session of the ACP Council of Ministers held in Brussels from 21 to 24 May 2007 to address the outstanding issues in the EPA negotiations, agree a road map for finalising, signing and implementing the said agreements and take stock of the negotiations underway at the WTO, was chaired by Hon. Hans-Joachim Keil, Associate Minister of Commerce, Industry, and Labour of the Independent State of Samoa.
3. The Secretary-General of the ACP Group of States, Sir John KAPUTIN, delivered a welcome address.
4. During their interactive session with Mr. Pascal Lamy, Director-General of the WTO, the Ministers discussed the current situation regarding the multilateral negotiations and the developments under consideration in the various areas of interest to the ACP States. They also seized the opportunity to explore, with the Director-General of the WTO, ways and means to help the ACP States deal with the requirements for WTO-compatibility of the EPAs.
5. The Ministers received a report from the Senior Officials which included the discussions that they had had with the European Commission Directors-General for Trade and Development. The Ministers exchanged views based on that report and in this regard;
 - 5.1. Noted the report and endorsed concerns expressed that negotiations should not be conducted in a manner that continues to exert pressure on ACP regions in a take-it-or-leave-it manner;
 - 5.2. Expressed dissatisfaction that the exchanges did not reveal any willingness on the part of the EC to explore such options as GSP plus or enhanced GSP measures – as temporary measures to WTO compatibility; and
 - 5.3. Stressed that in attempting to obtain individual country agreements, the EC should desist from measures that will undermine regional integration processes.

I – Economic Partnership Agreements

A - Scenarios and conditions for concluding the Agreements

6. Ministers noted from the presentations on the state of play of the EPA negotiations that most regions would not be in a position to conclude the full EPAs by the agreed deadline. Ministers also observed that trade is already being

disrupted as importers in Europe are hesitant to place orders for delivery in January 2008, since they are not sure about the import regime that will be in place in the European Union. This was considered to be extremely serious.

7. Ministers considered three possible scenarios and related corresponding conditions that would ensure that there is no continued disruption of trade between the ACP countries and the European Union from 1 January 2008, namely:
 - 7.1. **Securing a comprehensive EPA:** In light of the time constraints, this might require securing the extension of the current WTO Waiver. The Ministers believe that there is a compelling case for a request for a waiver, bearing in mind that *AGOA and CBERA* trade regimes continue to operate pending the consideration of the extension of the waiver.
 - 7.2. **GSP, GSP plus and EBA:** These regimes are autonomous and not equivalent to the current Cotonou trade regime.
 - 7.3. **EC proposal for interim agreements with a built-in agenda for a comprehensive EPA at a latter stage:** Ministers emphasized the need to define the content of the interim agreement taking into account the needs of ACP countries and regions. This must include the following: market access for goods and development issues. However, the impact on regional integration must also be taken into account.
8. The Ministers stressed that whatever the scenario, the fundamental principles listed below should continue to be observed in the negotiations:
 - (i) EPAs should be tools for development and therefore contribute to the sustainable development of ACP economies;
 - (ii) EPAs should build on the *acquis* and no ACP State should be worse off after 1 January 2008;
 - (iii) asymmetry in obligations should be applied because of the different levels of development among the negotiating partners;
 - (iv) regional integration – the process should ensure support and positive contribution to the regional integration process in the ACP region but should not dictate the pace of that integration; and
 - (v) ACP countries not in a position to enter into an EPA should be provided with a framework for trade which is equivalent to their existing situation, and in conformity with WTO rules.
9. The Ministers took note of the consideration given to the above-mentioned scenarios by the different ACP regions, following which they:

- 9.1. observed that to date no ACP region has completed the EPA negotiations and therefore urged that every effort be made to obtain a fair and equitable EPA that would be a real development vehicle for their countries;
- 9.2. exhorted the regions which, for objective reasons, are not in a position to conclude a comprehensive EPA, to continue to explore all possible ways and means to safeguard the relevant interests;
- 9.3. invited the negotiating regions to recall their solidarity and take into account all the concerns of their member countries to ensure that no country is adversely affected by the regional decision;
- 9.4. called on the EC to take all the possible measures, in conjunction with the ACP States, including, if necessary, the submission of a request for a waiver to the World Trade Organisation, in order to enable the trade regime currently in effect to continue during the period required to conclude the negotiations in the event that, despite the will and efforts of the negotiators, it might not be possible to conclude agreements that are compatible with WTO rules in due time.

B- ACP market access offer for goods

10. The Ministers agreed to adopt the following positions concerning the various aspects relating to market access for goods:
11. **Substantially all trade:** Recalling that the WTO has no set definition of substantially all trade, to request the EC to take the approach provided in GATS Article V which recognizes the need for differentiated treatment of market opening between developed and developing countries as well as Article 37.7 and 37.8 of the Cotonou Agreement.
12. **Transition period:** To retain the 25 years transitional period as a minimum and option be given to ACP States to determine their liberalization pace.
13. **Exclusion list:** To take action in order to establish coherence and consistency between the list of special products being developed in the context of WTO negotiations and the sensitive products being proposed by ACP regions in their market access offers under EPAs.
14. **Rules of origin:** While welcoming the improvements proposed by the European Commission, to request that rules be further improved, especially in the fisheries sector, and taking into account other areas such as the automatic derogation and cumulation.

15. **Trade defence measures:** To develop effective trade defence instruments that would protect against possible surges of imports from the EU, and to protect infant industries.
16. **Export subsidies:** Taking into account the insistence of the European Commission to apply the zero for zero approach to export subsidies, allow regions to impose countervailing duties or include affected products in the exclusion list.
17. **MFN Clause:** To reject any attempt by the EC to include the MFN Clause in EPAs.

EC Market access offer

18. The Ministers welcomed the EC offer of duty- free, quota-free market access for goods imported from ACP regions (with transitional periods for sugar and rice). However, they noted that the offer excludes South Africa.
19. **Sugar:** The Ministers supported the position of the ACP countries signatories to the Sugar Protocol regarding the EC's proposal for its future Sugar Regime as reflected in the conclusions of the ACP Special Ministerial Consultations on Sugar held in September 2007 [ACP/63/068/07] and agreed that the chairperson should communicate these forthwith to the EU institutions. Ministers also took note of the report of the Chairman of the ACP Sugar Ministerial Consultative Group, which met at ACP House on 7 November 2007, and supported the decision to express disagreement with the decision of the EU to unilaterally denounce the Sugar Protocol. Ministers further agreed to give their support to all the actions that these countries may undertake in response to the European Union's unilateral, untimely and unjustified denunciation of the Sugar Protocol, more particularly to safeguard the benefits derived therefrom and to ensure compliance with the relevant provisions of the Cotonou Agreement and of the Sugar Protocol.
20. Concerning sugar exported under the EBA regime, the Ministers asked the EC for duty-free, quota-free access as of January 2008 without a safeguard clause, except for the prevention of fraud.
21. **Bananas:** The Ministers note that the Dispute Settlement Body of the WTO will issue a ruling in the coming months which could determine the future of the ACP banana producers. In this regard, they urged the EC to consult and closely involve the ACP countries in any future negotiations which might possibly modify the current EU banana import regime. They recommended that a request be made to the EC for additional support to the banana sector in ACP countries that will be affected by the current and possible future change in the banana regime.

C - Development Cooperation

22. The Ministers recalled that the ACP and EU have agreed to incorporate development cooperation provisions in the EPAs. In this regard they agreed:
- 22.1. To request that the Commission relaunch the programming exercise of the Regional Indicative Programmes (RIPs) of the 10th EDF and make an explicit commitment on delinking the disbursement of development support funds from the requirement to sign EPAs.
 - 22.2. To invite ACP regions to define their EPA-related needs in order to make the case for increased EPA development support.
 - 22.3. To urge the ACP States and the European Union Member States to urgently ratify the revised Cotonou Agreement to ensure that funds under the 10th EDF are accessible in a timely manner.
 - 22.4. To invite ACP regions to adapt their regional financial procedures and delivery mechanisms to take account of the new implementation and management procedures.
 - 22.5. To put in place a mechanism to facilitate faster disbursement of resources of Aid for Trade through simplified procedures.
 - 22.6. To craft provisions to link the dismantlement of tariffs to the making available of development support to allow absorption of the fiscal impact of EPAs and upgrading of the economies.
23. **EPA Support:** The Ministers noted that funding proposed under the 10th EDF and Aid for Trade will not be adequate to cater for EPA-related needs as identified by the regions. They therefore agreed that:
- 23.1. Firm commitments be sought from the EC on the amounts of the contribution to be made to the regional EPA funds and to envisage additional resources outside the EDF.
 - 23.2. Amounts arising from up-scaled ODA commitments be considered for channelling support of EPAs.
 - 23.3. Funding for capacity building should be demand and needs-based as well as user-driven.
 - 23.4. The five areas identified in the multilateral arena regarding the scope of Aid for Trade (*trade policy and regulations, trade development, trade-related infrastructure, building productive capacity, trade-related adjustment, and other trade-related needs*) should be taken into account by the Commission in assessing the level of its commitments.

D- Legal and Institutional Issues

24. The Ministers adopted the following positions:

- 24.1. **Definition of Parties:** Although EPAs will mostly be signed by individual member states on the ACP side, the unity and solidarity of the ACP Group should be maintained.
- 24.2. **Dispute Settlement Mechanism with respect to safeguards:** The plan by the EC to apply WTO Dispute Settlement mechanism on safeguards should be rejected as in some regions the majority of countries are not WTO members. In this regard, it was recommended that a model dispute settlement mechanism be designed that could be utilized in all ACP regions
- 24.3. Furthermore, the Ministers rejected the application of collective sanctions in the Dispute Settlement process.
- 24.4. **Non-Execution Clause:** The Ministers totally rejected the inclusion of this clause in EPAs
- 24.5. **Monitoring the implementation of EPAs:** The Ministers recommended that the ACP Council of Ministers establish a mechanism to monitor the implementation of EPAs.

E- Trade-Related Issues

25. The Ministers noted that the discussions and negotiations in this area will continue in 2008 in most ACP regions, and recommended as follows:

- 25.1. Regions should focus on priorities that will assist in the improvement of their export trade performance, such as capacity building to meet health and technical standards.
- 25.2. Emphasis should be placed on development cooperation, which builds upon regional initiatives and promotes regional integration.
- 25.3. Commitments on this cluster of issues should be linked to specific EC commitments to support capacity building measures in ACP regions.

F- Agriculture

26. Noting also that the negotiations in this area will be continued in 2008 in most of the ACP regions, the Ministers underscored the need to focus discussions on, *inter alia*, Processing, Marketing, Distribution and Transportation (PMDT),

Net-Food Importing Developing Countries (NFIDCs), food security, Special Products, and Special Safeguard Mechanism.

G- Services

27. The Ministers expressed concern that the EC is demanding substantial sectoral coverage beyond what is provided for in the WTO Article V of GATS and recommended that the ACP regions apply the flexibilities available to developing ACP countries to the maximum level.

II - WTO Doha Negotiations

28. The Ministers took note of the report on this matter submitted by the Senior Officials. They also noted the information provided by the Director-General of the WTO on the progress made in the areas of major importance to the ACP countries, such as flexibilities for small, vulnerable economies; the erosion of preferences; the disciplines relating to food aid and export credit; duty- and quota-free access for LDC exports). Information was also provided on the issues for which efforts are still required, including the cotton dossier, the reduction of domestic support for agriculture, special products, the special safeguard mechanism, commodities, tariff escalation, flexibilities for developing countries in the negotiations on market access for non-agricultural products (NAMA).
29. The Ministers welcomed the results obtained and stressed the need to do everything possible to ensure that the list submitted by the ACP Group regarding the preference erosion is rationalized to render it more credible.
30. The Ministers adopted the annexed communiqué in order to highlight the need to push ahead with the ongoing negotiations at the WTO and to ensure that these negotiations produce an outcome that takes due account of the interests and concerns of the developing countries, especially the ACP States.