

**Joint Angola, Namibia and South Africa Demarche to the  
European Union Member States  
7 January 2009**

**Background**

We, the Governments of Angola, Namibia and South Africa have repeatedly raised concerns about specific aspects of the Interim Economic Partnership Agreement (IEPA) that profoundly impede prospects for deepening the processes of sustainable integration and development within and between the countries of Southern Africa.

These concerns have been raised at the highest levels, including by our Heads of State, Ministers, Senior Officials and Ambassadors in numerous discussions and engagements with EU representatives in a range of fora, over the entire course of 2008.

We welcome the outcome of the General Affairs and External Relations Council on 27 May 2008. That meeting acknowledged concerns expressed by ACP partners, and underlined the need for a flexible approach by the European Commission to support existing regional integration processes and promote development.

We also welcome the constructive approach articulated by the new Commissioner for Trade, Baroness Ashton in a meeting on 16 December 2008 with the Deputy Minister of Trade of South Africa.

The Commissioner expressed hope for a new approach in advancing the EPAs, a keenness to shift the focus back to facilitating development and complementing regional integration, and indicated that a key objective would be to ensure that South Africa was part of the EPA process, understanding the need to anchor the SADC region's strongest economy in such an agreement.

We further welcome the EC non-paper, submitted on 17 December, entitled "A proposal for tariff alignment deal with South Africa to preserve SACU tariff coherence" as a positive acknowledgement of our repeated contention that the IEPA, in its current form, will undermine the SACU common external tariff.

We believe these positive developments could constitute a basis for addressing concerns with the IEPA that moves away from a piecemeal and partial approach to one that is decisive and comprehensive in order to effectively promote regional

development and integration, and to meaningfully strengthen trade relations between Southern Africa and the EU.

To this end, several sets of issues will need to be discussed and addressed.

### **Issues**

First, the SADC-wide integration process will be compromised if the current approach persists. As it stands, members of SADC will be required to establish at least four separate EPA trade arrangements with the EU.

Each of these separate trade arrangements have different product coverage, different time frames for tariff phase down, and different exclusion lists, and will therefore require a new layer of customs administrative measures to avoid trade deflection in SADC and COMESA. This will set back and complicate ongoing processes of trade integration and trade facilitation in the region.

Second, more long-term trade policy divisions will be established in the region as each EPA arrangement contains differential commitments on such new trade policy issues as services, investment, competition policy, and government procurement.

The purported commitment set out, amongst others, in the EC's Working Paper of February 2007 entitled "The EU-ACP Economic Partnership Agreements: Overview of Negotiations and Key Issues", is to build the regional market in Southern Africa before seeking market access. Under the current arrangements, countries in the region will take on separate market access commitments to the EU in these new areas before taking on commitments among themselves to build the regional market.

This runs counter to the EU experience where regional rules, regional market opening and integration among EU Member States take precedence over market openings to non-EU partners.

Third, while we welcome the engagement with the EC on the document prepared by Angola, Namibia and South Africa that outlines our joint concerns, the time allocated to the engagement has, thus far, been extremely limited.

Moreover, no flexibility has been demonstrated by the EC on the key substantive points of concern.

Proposed solutions that unduly exacerbate differentiation between South Africa and other members of SADC and SACU should be avoided as they create additional trade policy divisions in the region.

In light of our experience in obtaining some recognition of the validity of the concerns we have identified, the indication that these may be addressed in negotiating towards a full or final EPA offers little comfort.

More seriously, the signing and entry into force of IEPA will create a new legal framework for the region's relations to the EU that will make changes to the legal text of the IEPA to address the concerns more difficult to obtain.

Fourth, while Angola has repeatedly articulated its specific concerns, given the fact it is an LDC emerging from decades of conflict, there is little clarity as to how these will be addressed in concrete terms. Angola has sought clarity on: i) the implications of joining the EPA on its status as an LDC; ii) how to compensate the considerable loss of revenue it will suffer if it makes an offer to the EU that covers substantially all trade; iii) commitments to fund, through the EDF, interventions that build agricultural and industrial sectors, supply and infrastructure capacity, product and export diversification, trade facilitation, skills development; and iv) rules of origin that promote investment and export.

Fifth, while we welcome the EC non-paper as a positive recognition that the IEPA will undermine the common external tariff in SACU, the proposed solution is inadequate and short term in that it seeks to address the difficulties under two separate legal regimes (the IEPA and the Trade, Development and Cooperation Agreement – the TDCA), and does not address the implications of differing commitments among members of SACU with respect to the provision on more favourable treatment.

Tariff negotiations between SACU and the EC should be concluded to ensure that a single SACU tariff offer to the EU is contained in a single legal instrument to consolidate the only customs union in Southern Africa.

### **Way Forward**

The vulnerabilities among the SADC EPA Group arising from the continued threat of losing preferential access to the EU market should not be allowed to

inhibit the development of a new approach to the EPA negotiations that both preserves access to the EU market and addresses the concerns.

Against this background, we reiterate our call for more time to fully engage EU Member States and the Commission on each of these issues.

There is no imminent danger of a WTO challenge to the SADC-EC IEPA. Some WTO Members have raised concerns about the EPA in so far as it may have implications for the Enabling Clause.

No WTO Member has raised the possibility of challenging the EPA and even if a challenge is initiated, it will take up to fifteen months before a Panel will reach a finding.

More importantly, Botswana, Lesotho, Namibia and Swaziland already offer the EU *de facto* reciprocity on substantially all trade by virtue of being in a customs union with South Africa which has a WTO-compatible free trade agreement with the EU (the TDCA). In this way, SACU trade relations with the EU are already WTO-compliant.

Therefore:

We call on EU Member States, the European Parliament and the European Commission to acknowledge the legitimate and genuine concerns of Angola, Namibia and South Africa on the process, substance and timetable of the IEPA, and to create opportunities for open and frank discussions on all these issues.

As the IEPA is seriously flawed and will set back regional integration and development in Southern Africa for many years, EU Member States should avoid taking a premature decision to authorize the signature of the IEPA.

We call for a delay in the signing of the IEPA to allow us all to address the concerns decisively and comprehensively and to create the conditions for all Members of the SADC EPA group to participate in a final EPA outcome and establish a single regional trade arrangement with the EU.

This approach also seeks to avoid having to sign and ratify two agreements (IEPA and full EPA) by drawing them into a single process.