



State of EPA Negotiations in May 2009

Briefing note

Prepared by ECDPM,
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1 Overview

By the end of 2007, one full regional Economic Partnership Agreement had been reached between the EU and CARIFORUM, which was signed on 15 October 2008. In all other negotiating regions, interim agreements covering mainly trade in goods were initialled between the EU and individual ACP countries and subgroups of countries, with a view to continuing negotiations towards full regional EPAs. The interim agreements between with Cote d'Ivoire and with Cameroon were signed on 26 November 2008 and 15 January 2009 respectively; signature of the remaining ones is planned to follow.

Signed agreements are now going through the ratification phase by the European Parliament as well as national parliaments in the ACP and in European member states. The European Parliament gave its assent to the CARIFORUM-EC EPA and to the Cote d'Ivoire-EC interim agreement on 25 March 2009. In the meantime, before ratification is completed, the (interim) EPAs are applied provisionally.

In parallel to the preparations for signature of the interim agreements, throughout 2008 negotiations towards comprehensive regional EPAs have been taking place in all regions, in line with the rendez-vous clauses contained in the interim deals. These clauses specify areas in which negotiations are to be held, in particular relating to trade in services and trade related issues, and in most cases set a deadline for concluding these by the end of 2008 (except for the agreements with ESA and EAC, which do not indicate a timeframe). However, work towards full EPAs has been stretching into 2009 in all regions.



Some challenges for these negotiations include:

- *Timeframe for concluding full EPAs and status of interim agreements:* While actors in all regions have expressed the willingness to negotiate full EPAs that would supersede the interim agreements, it remains to be seen by when it will be possible to conclude these EPAs. Should negotiations face delays, the interim agreements might be applied over a longer period than initially foreseen or even become the permanent agreements.
- *Contentious issues in the interim agreements:* The African Union Ministers of Trade and Finance¹ have identified a number of provisions contained in the interim agreements, which they demand to be reviewed during the negotiations for full EPAs. These issues include the definition of substantially all trade, transitional periods, export taxes, free circulation of goods, national treatment, bilateral safeguards, infant industry, non-execution clause and the MFN clause.
- *Thematic scope of full EPAs:* The rendez-vous clauses in the interim agreements specify areas to be addressed in negotiations (in particular relating to services and trade related issues), but cannot prescribe the outcome of these talks. Accordingly, if negotiations on services and trade related issues are concluded, there are various options of how provisions may be designed in the final agreements, ranging from comprehensive provisions to best endeavour language. Further, in order to address the specificities of individual countries and sub-regions, variable geometry might be applied within a region.
- *Harmonisation of the EPA process with regional integration initiatives in the ACP:* After interim agreements have been initialled with individual countries and sub-regions out of larger regional groupings, parties now aim at concluding full regional agreements, which harmonise commitments among all countries within a region. This is likely to be a crucial aspect in ensuring that EPAs will meet their initial objective of fostering regional integration, instead of complicating integration initiatives.
- *Development support for EPAs:* While all parties recognise the necessity of accompanying measures for EPAs, challenges relate both to the amounts and to the effective use of resources, which the EU foresees to be provided under its joint Aid for Trade (AfT) strategy. While the European Commission has made clear that it will not provide any additional finance for EPA support beyond the EDF, EU member

¹ Addis Ababa Declaration on EPA Negotiations, adopted at the African Union Conference of Ministers of Trade and Finance, 1-3 April 2008, Addis-Ababa, Ethiopia, http://www.acp-eu-trade.org/library/files/AU-Ministers-of-Trade-and-Finance_EN_030408_AU_Addis-Ababa-Declaration-on-EPA-Negotiations.pdf



states have committed to increase their AfT spending². A challenge in implementing AfT is also the translation of commitments into concrete programming and the effective assessment of needs in ACP countries and regions.

The African Union Commission (AUC) is also preparing, with the technical support of the United Nations Economic Commission for Africa (UNECA), an African EPA template. The document has been considered by African Union trade ministers in March 2009 and is expected to be developed further through consultations between the AUC, UNECA and the regional economic communities.

2 Negotiations by Region

2.1 Central Africa

In the Central African negotiating region, only Cameroon initialled an interim agreement, which was signed on 15 January 2009.

Gabon, as one of the non-LDCs in the region, did not initial an interim agreement. Due to its non-LDC status the country does not qualify for duty and quota free access under the Everything But Arms regimes and is currently exporting under the standard GSP scheme. It had requested to be included into the GSP+ scheme, which was rejected by the European Commission, because Gabon had not ratified one of the conventions required according to the GSP regulation. There will be a new opportunity mid 2010 for countries to apply for GSP+.

Negotiations towards a full regional EPA have been continuing in 2008 and 2009. Outstanding issues include the Central African regional market access offer in goods, rules of origin, trade in services, and trade related issues as well as development support in line with a Joint Orientation Document (JOD) on reinforcing production capacities and increasing economic competitiveness.

The joint technical negotiating meeting scheduled to be held in Brussels in the week of 20 April has been postponed at Central Africa's request. This will allow Central Africa to first establish their political direction on EPA negotiations at a regional meeting of trade ministers.

In Cameroon, the Pilot Programme for Industrial Upgrading, Standardization and Quality has been launched on 11 December 2008. It is the first of several programmes carried out by UNIDO to strengthen private sector capacities in the context of EPA implementation.

² The EU AfT Strategy specifies a concrete target of increasing EU trade related assistance (TRA) to €2 billion per year by 2010 (€1 billion each from the European Commission (EC) and from EU member states). As the EC is already close to providing its target, most of the increase in TRA is expected to come from member states. Around 50% of the increase is earmarked for ACP needs.



2.2 West Africa

In the West African region, two separate interim agreements were initialled by Ghana and Cote d'Ivoire. The latter was signed on 26 November 2008; signature of the agreement with Ghana is expected to follow.

Nigeria, being a non-LDC, is currently exporting under the standard GSP scheme as it did not initial an interim agreement³.

Negotiations towards a full regional EPA, which would supersede the interim agreements, have been going on and aim at concluding by June 2009.

Issues that are reportedly close to agreement after the last technical negotiation rounds on 24-27 March and 20-24 April 2009 include the EPA text on trade in goods, dispute settlement, general exceptions, institutions and final provisions.

The main outstanding issues in the negotiations relate to the West African market access offer on trade in goods, rules of origin and development cooperation. With respect to market access in goods, the elaboration of a regional list of sensitive products and the adoption of an ECOWAS Common External Tariff have proven to be challenging. Following the necessary regional preparations on these issues, West Africa has tabled a regional market access offer in February 2009, on which the EC has submitted comments. Further discussion is needed among the parties on the interpretation of WTO GATT article XXIV, with respect to the extent of liberalisation required and the length of the transition period.

On rules of origin, West Africa is requesting further simplification. Negotiations are progressing in this area.

Further discussion is needed also on the chapter on development cooperation. The region has prepared an EPA development programme (PAPED) to address development needs arising from an EPA, which it aims to include in the EPA as an annex.

Another issue remaining to be discussed further is the inclusion of commitments on trade in services.

West African ministers on 12-15 May 2009 called for contentious issues to be resolved as soon as possible at the highest political level.

2.3 SADC

In SADC, an interim agreement was initialled by Botswana, Lesotho, Namibia (BLNS), Mozambique and Swaziland. South Africa, despite forming a customs union (SACU) with the BLNS countries, has not joined the agreement so far and continues exporting to the EU under the Trade, Development and Cooperation

³ Similarly to Gabon, its application to be included into the GSP+ scheme was rejected by the European Commission, because Nigeria had not ratified one of the conventions required according to the GSP regulation. There will be a new opportunity mid 2010 for countries to apply for GSP+.



Agreement (TDCA). Negotiations towards a comprehensive EPA are taking place and include South Africa.

Following a visit of European Commissioner Ashton to the region in February and a round of joint negotiations at technical and senior officials level on 9-11 March 2009 in Swakopmund, reportedly a number of issues of concern on the IEPA (raised in particular by Angola, Namibia and South Africa) could be solved. Reportedly, Botswana, Lesotho, Namibia and Swaziland (BLNS) and the EC are now prepared to sign the IEPA (with declarations reflecting the outcomes of the recent meetings) and then continue negotiations towards a comprehensive, regional EPA. Signature of the interim agreement is currently expected for 27 May 2009.

A key issue in the region is the coherence of tariffs towards the EC among SACU members. It was envisioned that the EPA would result in one trade regime between SACU and the EC, by rectifying the fact that there was the Cotonou Agreement for BLNS and the TDCA for South Africa. An alignment of tariff schedules under the TDCA and under the IEPA is planned through a joint decision of the interim EPA institutions. However, South African sources indicate that under the current alignment proposal made by the EC, new border controls would be required within SACU due to the misalignment of rules of origin.

In the negotiations towards a full EPA, outstanding issues remain on trade in services and investment provisions.

2.4 Eastern and Southern Africa

After the initialling of an Eastern and Southern Africa (ESA)-EC interim agreement by six countries⁴ (with separate market access offers but a common text) and an East African Community (EAC)-EC interim agreement, negotiations with the EC towards a full agreement are taking place, both in the ESA and the EAC configuration and are continuing in 2009. In March 2008, ESA countries announced that they were going to continue negotiations with the EC as a collective body of 16 countries. Accordingly, EAC countries participate in ESA meetings, but they nevertheless hold separate EAC-EC negotiations in parallel.

The ESA-EU interim agreement is expected to be signed in June 2009.

Outstanding issues in the negotiations towards a full EPA in the ESA configuration comprise provisions on trade in goods (including on agricultural safeguards), rules of origin, trade in services, trade related issues as well as development support in line with a development matrix compiled in the region. Following a meeting between ESA Trade Ministers and the European Trade Commissioner on 6 April 2009, technical negotiations that had been suspended for several months

⁴ Comoros, Madagascar, Mauritius, Seychelles, Zimbabwe and Zambia initialled the agreement in 2007. Zambia submitted its market access schedule only in 2008 (initialled with the EC on 30 September 2008) and was therefore temporarily exporting under the EBA regime from January to December 2008.



resumed on 27-29 April 2009. According to ESA sources, the major challenges faced in the negotiations had been largely due to the European Commission's inflexibility to accommodate ESA least developed countries (LDCs). At the joint ministerial meeting, however, Commissioner Ashton showed her readiness to deal with contentious issues such as export taxes, quantitative restrictions, infant industries, development benchmarks, agriculture, including a special safeguard clause for agriculture and additionality of resources. Another issue to be addressed is the inclusion of a most favoured nation clause.

In the EAC configuration, some contentious issues in the interim agreement remain to be addressed before its signature. Much of the text of a comprehensive EAC-EC EPA has been agreed, however, EAC sources indicate that outstanding issues include development co-operation, agriculture, trade in services, trade-related issues and rules of origin.

At a Tripartite Summit in October 2008, COMESA, SADC and EAC further decided to harmonise their trade arrangements with the view to a common free trade area. This decision was taken further by the adoption of a memorandum of understanding on inter-regional co-operation and integration on 6 April 2009.

2.5 Caribbean

After a full regional EPA was signed and notified to the WTO in October 2008, the EPA is being applied provisionally (since 29 December 2008) during the process of ratification by the European Parliament and Caribbean and EU national parliaments. Ratification has so far taken place by the European Parliament and by the Dominican Republic. Haiti has not yet signed the EPA but may still do so.

CARIFORUM is preparing an EPA Implementation Road Map and several member states are setting up national implementation units. CARIFORUM still needs to decide which organisation will be in charge of coordinating the implementation of the EPA at regional level. This decision needs to be taken by consensus, taking into account the needs of all CARIFORUM members, including the Dominican Republic, which is not a member of CARICOM.

Concrete needs on EPA support in line with the development provisions in the EPA text in the region are being determined through several studies. This process is led by the Regional Preparatory Task Force.



2.6 Pacific

In the Pacific region, negotiations towards a comprehensive regional EPA are taking place after an interim agreement with the EU was initialled by Papua New Guinea and Fiji.

The Pacific countries have proposed to focus the full EPA on trade in goods, fisheries and development cooperation. The region prefers not to include provisions in services at this stage, but to formulate a rendez-vous clause to negotiate trade in services at a later point.

The last technical negotiating meeting took place in September 2008; electronic exchanges have been taken place in the meantime. In March 2009, the Pacific Leadspokesperson for EPA negotiations, Hans Joachim Keil, sent a letter to European Trade Commissioner Catherine Ashton proposing to resume negotiations to seek convergence on outstanding technical issues (MFN treatment, export taxes, infant industry provisions, etc). Contentious issues need to be addressed before additional Pacific ACP countries table goods market access offers, after which time senior political representatives could decide on the way forward with a view to signing the EPA this year.

For Pacific ACPs, EPA negotiations have also triggered negotiations with Australia and New Zealand under the Pacific Agreement on Closer Economic Relations (PACER).

3 Additional resources on www.acp-eu-trade.org

- For **more detailed information** on the ongoing negotiations prepared by Melissa Julian, ECDPM, please refer to the longer version of the EPA Negotiations Update published in the monthly [Trade Negotiations Insights](http://www.acp-eu-trade.org/newsletter/tni.php), available at www.acp-eu-trade.org/newsletter/tni.php
- **Background information** on EPAs, an **overview of the agreements** initialled and signed so far, the **texts of the agreements** and **summaries by region** are available at www.acp-eu-trade.org/epa

EUROPEAN CENTRE FOR DEVELOPMENT POLICY MANAGEMENT (ECDPM)

Onze Lieve Vrouweplein 21
NL-6211 HE Maastricht
The Netherlands
Tel +31 (0)43 350 29 00,
Fax +31 (0)43 350 29 02

Rue Archimède 5,
B-1000 Brussels
Belgium
Tel +32 (0)2 237 43 10,
Fax +32 (0)2 237 43 19

More information: info@ecdpm.org www.ecdpm.org www.acp-eu-trade.org